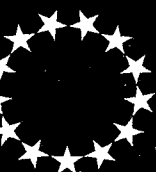
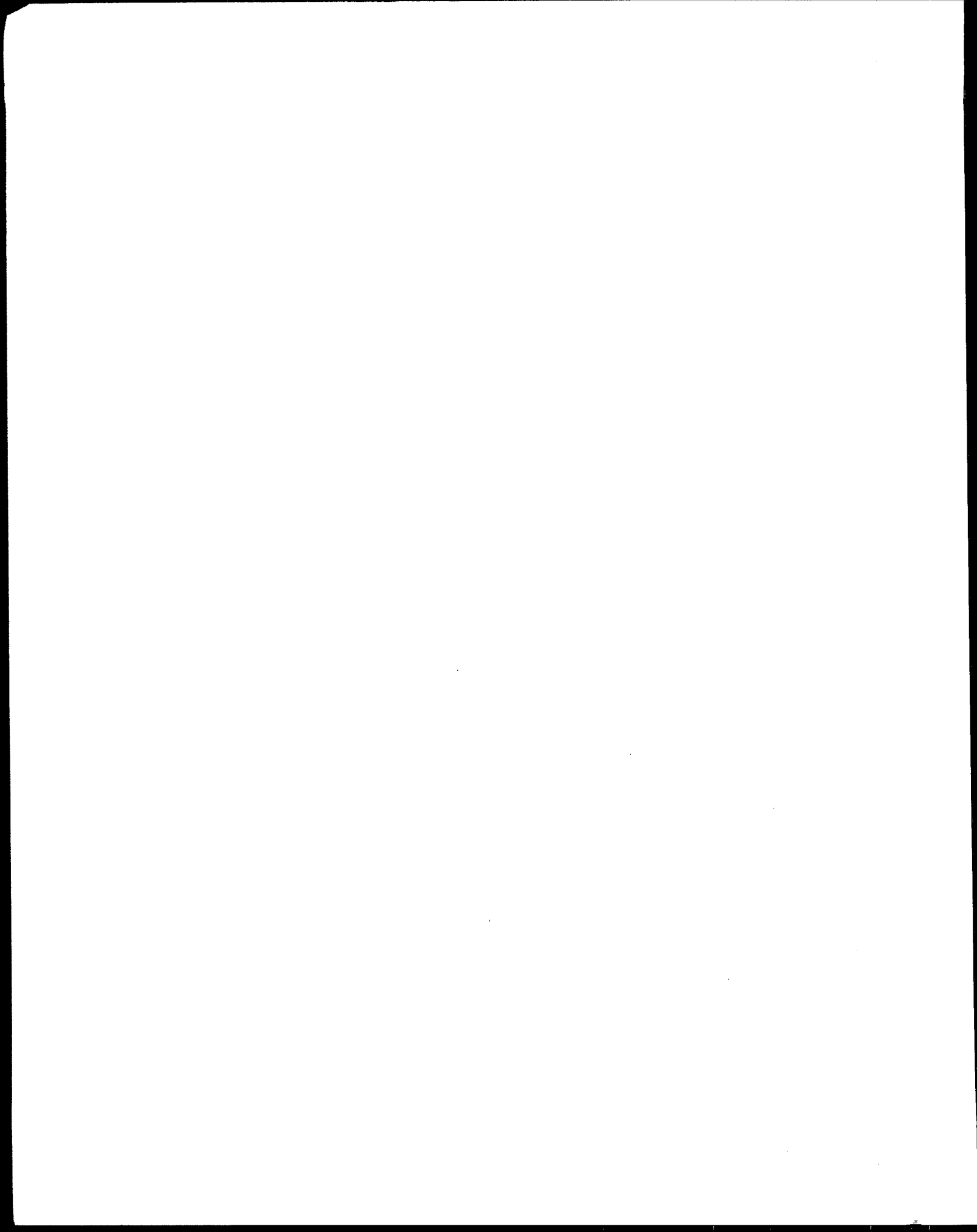


NATIONAL
GOVERNORS'
ASSOCIATION



Emergency Planning and Community Right to Know: State Profiles, 1999-2000





National Governors' Association
Center for Best Practices

Natural Resources
Policy Studies Division

Emergency Planning
and Community
Right to Know:
State Profiles,
1999-2000

by Michelle Hawkins

Since their initial meeting in 1908 to discuss interstate water problems, the Governors have worked through the National Governors' Association to deal collectively with issues of public policy and governance. The association's ongoing mission is to support the work of the Governors by providing a bipartisan forum to help shape and implement national policy and to solve state problems.

The members of the National Governors' Association are the Governors of the fifty states, the territories of American Samoa, Guam, and the Virgin Islands, and the commonwealths of the Northern Mariana Islands and Puerto Rico. The association has a nine-member Executive Committee and three standing committees—on Economic Development and Commerce, Human Resources, and Natural Resources. Through NGA's committees, the Governors examine and develop policy and address key state and national issues. Special task forces often are created to focus gubernatorial attention on federal legislation or on state-level issues.

The association works closely with the administration and Congress on state-federal policy issues through its offices in the Hall of the States in Washington, D.C. The association serves as a vehicle for sharing knowledge of innovative programs among the states and provides technical assistance and consultant services to Governors on a wide range of management and policy issues.

The Center for Best Practices is a vehicle for sharing knowledge about innovative state activities, exploring the impact of federal initiatives on state government, and providing technical assistance to states. The center works in a number of policy fields, including agriculture and rural development, economic development, education, energy and environment, health, social services, technology, trade, transportation, and workforce development.

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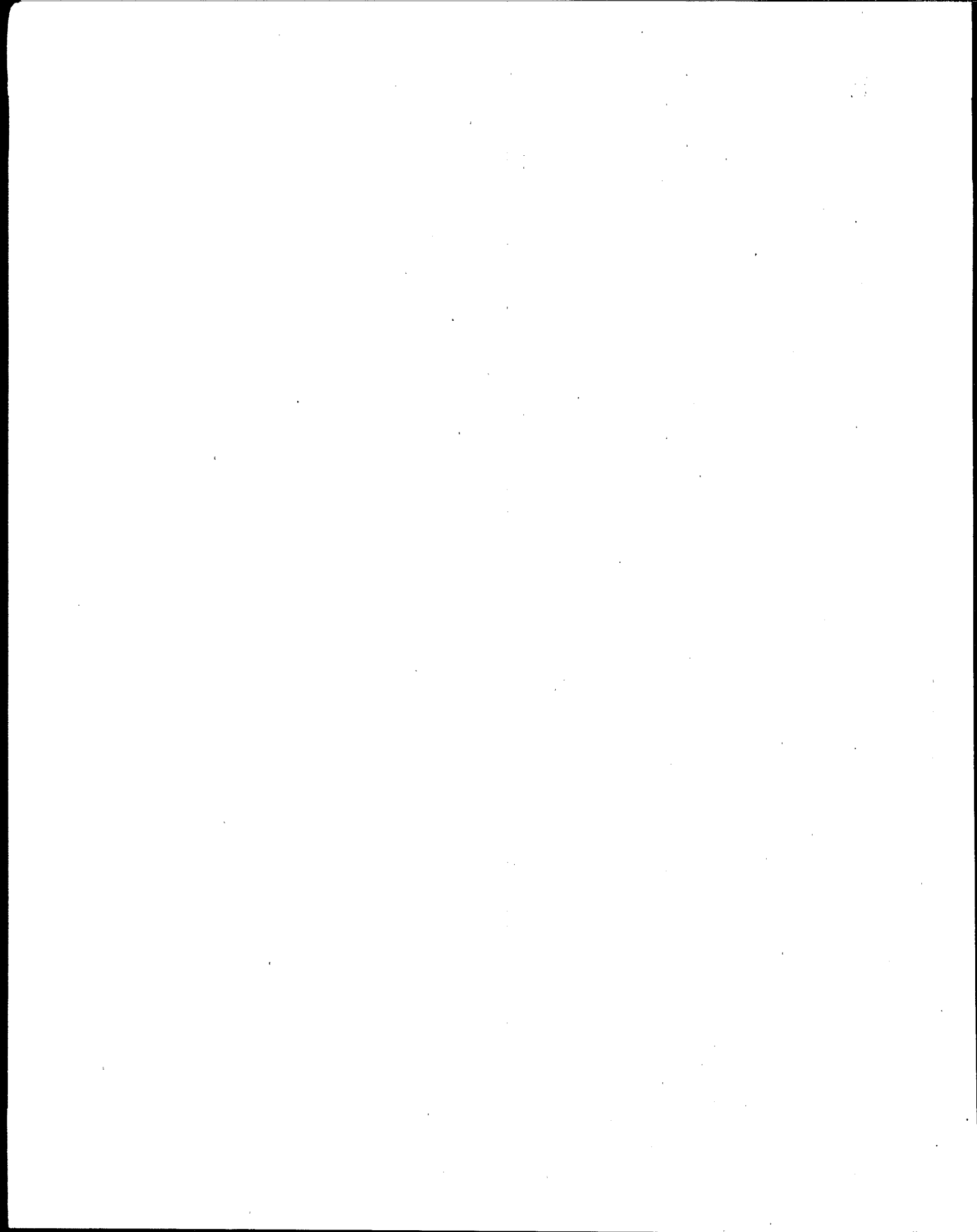
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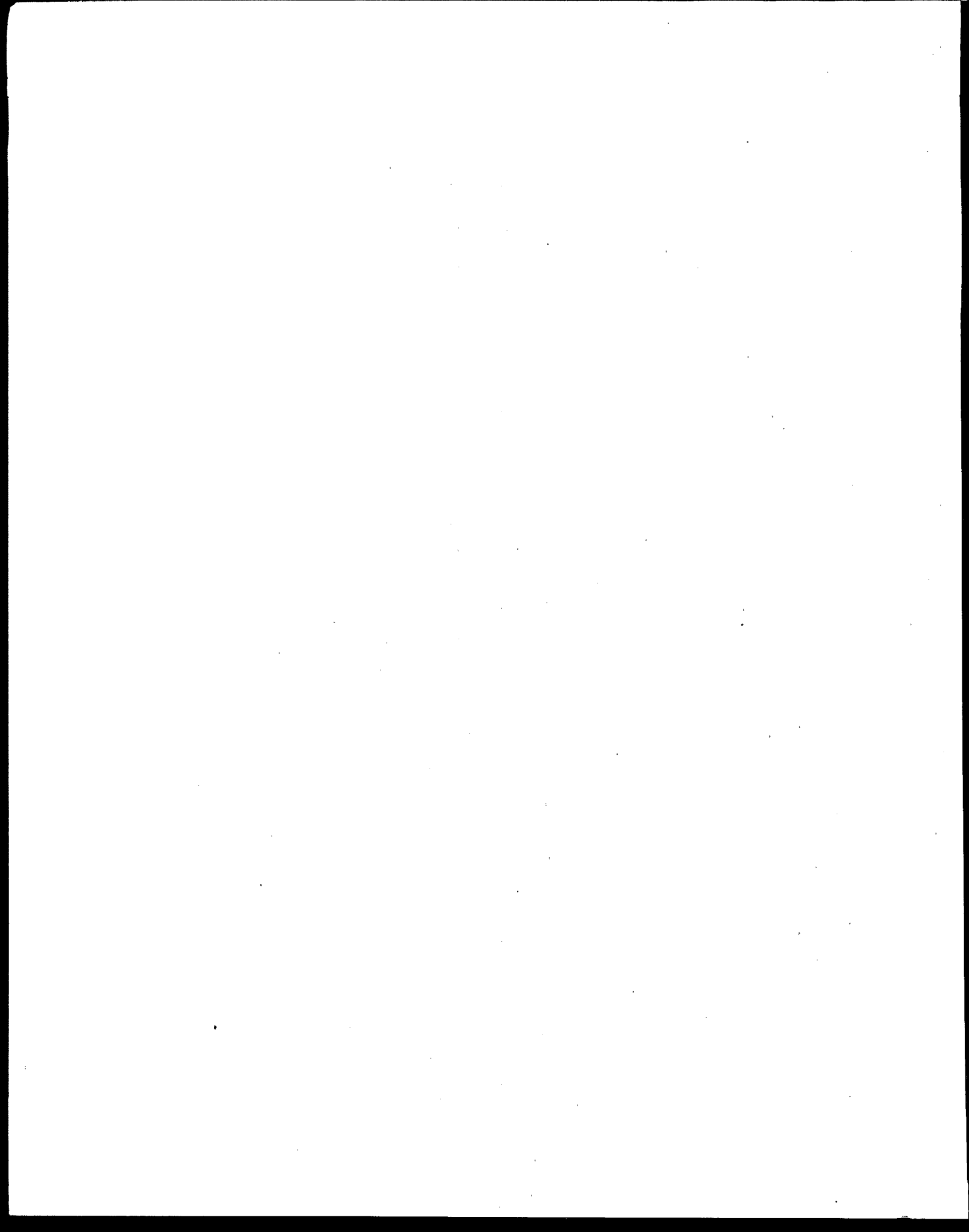
Foreword

The National Governors' Association (NGA) has been actively involved in right-to-know and emergency management issues for many years. Since the early 1980s, NGA policies have called for comprehensive emergency management and chemical safety as well as supported community and worker right-to-know programs. Following the enactment of the Emergency Planning and Community Right-to-Know Act under Title III of the Superfund Amendments and Reauthorization Act of 1986, NGA provided guidance to Governors' offices and state agencies on the law's implementation. Through conferences, workshops, and reports, the NGA Center for Best Practices keeps state officials informed of Title III issues, challenges, and opportunities. It also provides guidance to Governors and senior staff on emergency management. In 1993 NGA published *A Governor's Guide to Environmental Risk Response* and, in fall 1997, the Center published an updated edition of *A Governor's Guide to Emergency Management*.

This is the ninth National Governors' Association annual report that includes the characteristics of each state's emergency response commission. The project is funded through a grant from the Chemical Emergency Preparedness and Prevention Office, within the U.S. Environmental Protection Agency's Office of Solid Waste and Emergency Response. The grant also provides funding for the NGA Center for Best Practices to host technical exchange workshops and national conferences on state chemical emergency preparedness and prevention activities.

The report was written by Michelle Hawkins and edited by Kathy Skidmore-Williams. The author wants to thank the many state officials who provided information for this report.

Joel Hirschhorn
Director, Natural Resources Policy Studies
National Governors' Association

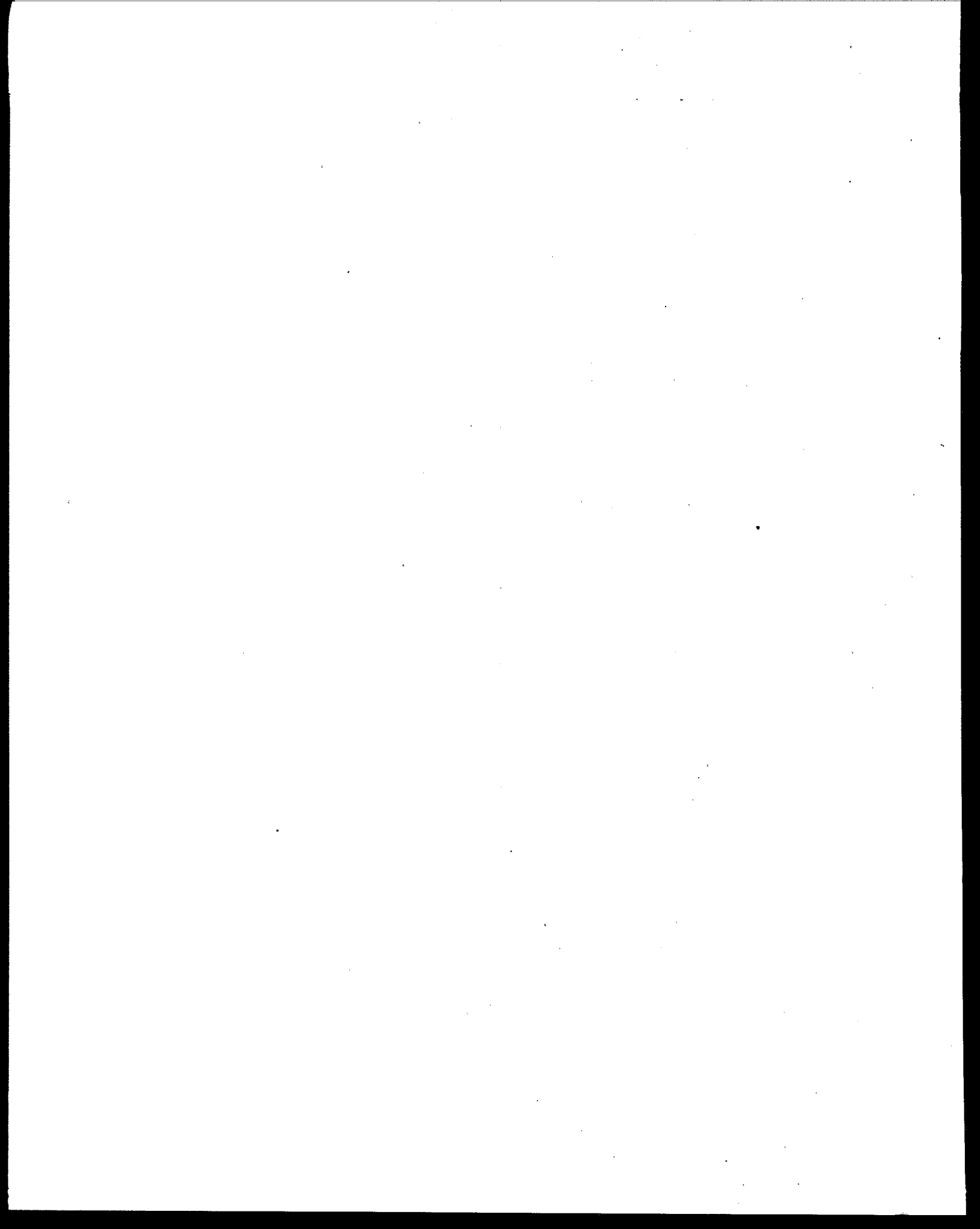


Executive Summary

The Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 required each state's Governor to establish a state emergency response commission (SERC) and appoint its members. Under EPCRA, the SERC is charged with developing integrated plans for responding to chemical emergencies and making chemical information available to the public. State agency priorities, structures, and funding determine how a state carries out these responsibilities.

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The state profiles in this report provide information on the state laws or executive orders that formally established the commission, SERC roles and responsibilities, and the state's relationship with its local emergency planning committees. State approaches to funding chemical emergency preparedness activities and other information that governs the operation of the state commission are also included.



Alabama

<i>Commission Name</i>	Alabama State Emergency Response Commission (AERC)
<i>Legal Basis</i>	Executive Order No. 4 Established March 6, 1987
<i>Commission Format</i>	Two state agencies
<i>Chairs</i>	Director, Emergency Management Agency Director, Department of Environmental Management
<i>Commission Address</i>	Alabama Emergency Management Agency P.O. Drawer 2160 Clanton, Alabama 35046 (205) 280-2234 (Emergency Planning/LEPC and SERC Activities) Alabama Department of Environmental Management P.O. Box 301463 Montgomery, Alabama 36130-1463 (334) 260-2700 (Notification Reporting Forms and Data Management)
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Emergency Management Agency■ Right-to-know: Department of Environmental Management■ Recipient of Section 313 data: Department of Environmental Management
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none">■ The state legislature has not approved funds specifically for chemical emergency planning.■ LEPC activities receive no funding.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none">■ AERC encouraged the establishment of subcommittees as part of local emergency planning committees to facilitate Title III compliance and to improve the effectiveness of the committees. Subcommittee topics included: vulnerability and hazard analysis, community awareness, response and preparedness, and training.■ Each of the sixty-seven county LEPCs has submitted local emergency response plans to the SERC. Annual reviews are conducted by the Emergency Management Agency.■ SERC and LEPC leadership hold periodic meetings.
<i>Related State Laws</i>	<ul style="list-style-type: none">■ Toxic Substances in the Workplace Act, 1985
<i>Enforcement Efforts</i>	<ul style="list-style-type: none">■ An enforcement program for the state law has not yet been established.
<i>Potential Liability of SERC and LEPC Members</i>	An Alabama statute provides limited immunity for SERC and LEPC members when the conduct in question is not grossly negligent, reckless, wanton, or intentional. It does not protect members whose own act or omission caused the discharge resulting in damages, nor does it protect members who received compensation (excluding out-of-pocket expenses) for advice or assistance.

Related Information

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- A hazardous materials advisory group was formed to assist the commission as needed and includes representatives from the Department of Public Safety, the Department of Public Health, the Department of Transportation, the Business Council of Alabama, the Alabama Petroleum Council, the Association of County Commissioners, the Alabama League of Municipalities, the Alabama Chemical Manufacturing Association, the Alabama Emergency Management Council, the American Red Cross, the Alabama Oil and Gas Board, and other emergency response and support organizations.
- Executive Order No. 4 states that other advisory organizations may be appointed by the commission if necessary. In addition, the commission may receive grants, donations, or gifts of money, equipment, supplies, and services from any public or private source to carry out its duties in implementing the provisions of Title III.
- The Plans Branch within the Alabama Emergency Management Agency is designated as the office of record for SERC meetings and the point of guidance for the local emergency planning committees.
- AERC has worked with EPA Region IV and FEMA Region IV to conduct special pilot outreach programs at LEPC workshops.
- The commission established a central reporting number (1-800-843-0699) for emergency release notification purposes.
- EPA Region IV and AERC are providing CAMEO software to LEPCs and fire departments to aid in planning, response, and recordkeeping.
- The Field Operations Division of ADEM maintains chemical records and spill report data.

SERC Members

Representatives of the Emergency Management Agency and the Department of Environmental Management. Twenty-three organizations are represented on a Hazardous Materials Advisory Group.

Alaska

<i>Commission Name</i>	Alaska State Emergency Response Commission
<i>Legal Basis</i>	Alaska Statute 26-23-071 establishes the Alaska State Emergency Response Commission and defines its role in emergency response planning. Under the law, the commission is responsible for reviewing and recommending improvements regarding any area of the state's capability to respond to a catastrophic event.
<i>Commission Format</i>	Nine state agencies and seven members from the general public, appointed by the Governor.
<i>Chairs</i>	Commissioner or designee, Department of Military and Veterans Affairs (co-chair), Commissioner or designee, Department of Environmental Conservation (co-chair).

Commission Address

Alaska State Emergency Response Commission
c/o Department of Military and Veterans' Affairs
P.O. Box 5750
Fort Richardson, Alaska 99505-5750
(907) 428-7000
www.ak-prepared.com/serc

Agency Roles

- Emergency planning and training: Department of Military and Veterans' Affairs
- Right-to-know: Department of Environmental Conservation
- Recipient of Section 313 data: The commission, in care of the Department of Environmental Conservation

State Costs and Approaches to Funding

- The fiscal 1999 budget for all SERC activities is approximately \$730,000.
- The state provides \$543,400 in funding to LEPCs.

Local Emergency Planning Districts and Committees

- Twenty LEPCs have been established (Fairbanks/North Star Borough, City and Borough of Sitka, Kodiak Island Borough, Municipality of Anchorage, Ketchikan Gateway Borough, Matanuska-Susitna Borough, Northwest Arctic Borough, Kenai Peninsula Borough, Copper River, Petersburg/Wrangell, Northern Southeast, Denali Borough, Aleutians East Borough, Aleutian-Pribiloff Islands, Nome, Bristol Bay Borough, Delta-Greely, North Slope Borough, Nenana and balance of state.

Related State Laws

- Alaska State Emergency Response Commission, 1990, as amended in 1994
- Alaska Disaster Act, 1977, as amended in 1994
- Oil and Hazardous Substance Discharge Prevention and Contingency Plans, 1989
- Oil and Hazardous Substance Response Office, 1989
- Hazardous Substance Release Control, 1986
- Oil and Hazardous Substances Releases, 1986

Potential Liability of SERC and LEPC Members

Alaska has no statutory authority for indemnification of volunteers to public commissions. The state's Attorney General, the Division of Risk Management, and the Department of Environmental Conservation have entered into a Memorandum of Agreement (MOA) to indemnify SERC and LEPC members except in cases of gross negligence.

SERC Members

The commissioner or designated representative of the following state agencies:

- Department of Environmental Conservation;
- Department of Military and Veterans' Affairs;
- Department of Public Safety;
- Department of Transportation and Public Facilities;

Department of Health and Social Services;
 Department of Community and Regional Affairs;
 Department of Natural Resources;
 Department of Labor; and
 Department of Fish and Game.

Seven members from the general public, appointed by the Governor:

Two members of a rural local emergency planning committee;
 Two members of an urban local emergency planning committee;
 Two representatives of a political subdivision within a local
 emergency planning committee; and
 One member who represents undesignated public members
 (Public-at-large).

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American Samoa

<i>Commission Name</i>	American Samoa Local Emergency Planning Committee
<i>Legal Basis</i>	Executive Order No. 8-1987
<i>Commission Format</i>	Based on the Governor's Disaster Emergency Council and the Environmental Quality Commission. Additional members include four other public sector representatives.
<i>Chair</i>	Commissioner, Department of Public Safety
<i>Commission Address</i>	American Samoa Territorial Emergency Management Coordination Office Office of the Governor Pago Pago, American Samoa 96799 001 (684) 699-6461 (Emergency planning) American Samoa Environmental Protection Agency Office of the Governor Pago Pago, American Samoa 96799 001 (684) 633-2304 (Right-to-know)
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: American Samoa Territorial Emergency Management Coordination Office ■ Right-to-know: American Samoa Environmental Protection Agency ■ Recipient of Section 313 data: American Samoa Environmental Protection Agency
<i>LEPC Members</i>	Representatives of the LEPC: Department of Public Safety; Disaster Assistance Coordinator; and Fire chief. Representatives of the Environmental Quality Commission:

Manager, Emergency Medical Services;
 Manager, Port Administration, Airport;
 COS Somoa Packing Co.;
 Star-Kist Somoa, Inc.;
 Territorial Emergency Management Coordinating Office;
 Tesorio, Inc.; and
 U.S. Coast Guard Liaison Officer.

Arizona

<i>Commission Name</i>	Arizona Emergency Response Commission
<i>Legal Basis</i>	Title 26, Chapter 2, Article 3, Arizona Revised Statutes (Emergency Planning and Community Right-to-Know Act), effective July 8, 1988
<i>Commission Format</i>	Five state agencies. An advisory committee to the commission includes representatives from six additional state agencies, four representatives from industry, and two representatives from the fire community.
<i>Chair</i>	Director, Division of Emergency Management
<i>Commission Address</i>	Arizona Emergency Response Commission 5636 East McDowell Road Phoenix, Arizona 85008 (602) 231-6346 www.state.az.us/es/azserc
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Division of Emergency Management ■ Right-to-know: Division of Emergency Management ■ Recipient of Section 313 data: Arizona Emergency Response Commission and Arizona Department of Environmental Quality
<i>State Costs and Approaches to Funding</i>	Initially \$120,000 in state general funds was provided through the state agency budget process to support Title III implementation. The state also received federal grants.
<i>Local Emergency Planning Districts and Committees</i>	The commission designated each of Arizona's fifteen counties as local emergency planning districts. Each county emergency management plan includes an annex that focuses on hazardous materials preparedness and response. Title III requirements are integrated into these plans to include identification of site-specific information for facilities with extremely hazardous substances.
<i>Related State Laws</i>	<ul style="list-style-type: none"> ■ Title 23, Chapter 2, Article 10, Arizona Revised Statutes—Occupational Safety and Health/Worker Right-to-Know ■ Title 49, Chapter 5, Articles 4 and 5
<i>Enforcement Efforts</i>	In addition to enforcing its worker right-to-know law, Arizona relies on enforcement actions for the Emergency Planning and Community Right-to-Know Act (EPCRA). Citizen suit actions also have improved compliance.

*Potential Liability of
SERC and LEPC
Members*

Arizona law provides immunity for authorized emergency responders and SERC and LEPC members carrying out the provisions of EPCRA, excepting willful misconduct, gross negligence, or bad faith.

SERC Members

The director or designee of the following state agencies:

Division of Emergency Management;
Department of Environmental Quality;
Department of Health Services;
Department of Public Safety; and
Department of Transportation.

The advisory group consists of the following agency directors or designees:

Department of Agriculture;
Corporation Commission;
Industrial Commission;
Radiation Regulatory Agency;
State fire marshal;
State mine inspector;
Two representatives from the Arizona Fire Chiefs' Association; and
Four representatives from the private sector.

Arkansas

<i>Commission Name</i>	Arkansas Hazardous Materials Emergency Response Commission
<i>Legal Basis</i>	Act 567 of the 1993 Arkansas Legislature
<i>Commission Format</i>	Eight state agencies, one LEPC representative, two representatives from regulatory entities, one representative from an unregulated entity with a knowledge of EPCRA, and one private citizen.
<i>Chair</i>	Rotating
<i>Commission Address</i>	Arkansas Department of Environmental Quality P.O. Box 8913 Little Rock, Arkansas 72219 (501) 562-7444
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: state police, Department of Emergency Management, and Department of Environmental Quality (Section 304 planning notifications) ■ Right-to-know: Hazardous Materials Department of Emergency Management and Department of Environmental Quality ■ Recipient of Sections 311, 312, and 313 data: Office of Hazardous Materials Emergency Management
<i>State Costs and Approaches to Funding</i>	Fees generated on required reports, sections 312 and 313 of SARA Title III (IAW Act 634, 1995).

*Local Emergency
Planning Districts and
Committees*

The seventy-five counties and the cities of Little Rock and North Little Rock were designated local emergency planning districts, for a total of seventy-seven.

Enforcement Efforts

The state is encouraging voluntary compliance and will refer any necessary enforcement actions to the U.S. Environmental Protection Agency.

*Potential Liability of
SERC and LEPC
Members*

In an unofficial letter to the Department of Pollution Control and Ecology, the Office of the Attorney General expressed the opinion that SERC and LEPC members would be protected from liability under one or more of three Arkansas Immunity Acts. Under A.C.A. 19-10-305, "Officers and employees of the state of Arkansas are immune from civil liability for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment."

Related Information

The state legislature meets every other year. This makes it difficult to plan budget requests for Title III activities.

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SERC Members

The head or designated representative of the following state agencies:

Department of Environmental Quality;

Department of Labor;

Department of Highway and Transportation;

Fire Training Academy;

LEPC representative;

State police;

Department of Emergency Management;

Department of Health;

National Guard;

Two representatives from regulated entities;

One representative from an unregulated entity; and

One citizen.

California

Commission Name

California Chemical Emergency Planning and Response Commission

Legal Basis

Established March 20, 1987, through Executive Orders D-63-87 and W-40-93

Commission Format

Eight state agencies, three representatives from local government, and representatives of six regional planning districts.

Chair

Director, Governor's Office of Emergency Services

Commission Address

Chemical Emergency Planning and Response Commission
c/o Governor's Office of Emergency Services
Hazardous Materials Unit
2800 Meadowview Road

Sacramento, California 95832
(916) 464-3230
www.oes.ca.gov

Agency Roles

- Emergency planning: Governor's Office of Emergency Services (OES)
- Right-to-know: OES. Local government administering agencies, established under a preexisting state program, store this information and respond to public inquiries regarding business inventories.
- Recipient of Section 313 data: California Environmental Protection Agency

*State Costs and
Approaches to Funding*

- The state general fund provides staff support to the SERC and LEPCs.
- Funding for some SERC and LEPC activities is provided by U.S. DOT through Hazardous Materials Transportation Act grants.
- Local government agencies, such as fire and health departments, receive most of the emergency planning and community right-to-know information and may charge fees to businesses to support their local programs.

*Local Emergency
Planning Districts and
Committees*

- The SERC received emergency plans from all six of the regional LEPCs. (LEPC boundaries are the same as OES mutual-aid regions and include several counties and cities.)
- In addition to the statutorily required members, representatives of county agricultural commissioners, administering agencies, emergency management, and local government have been appointed to the committees. Each LEPC may add four ad hoc members. OES technical staff members have been assigned to assist LEPCs.

Related State Laws

- Effective 1997, new legislation (S.B.1889) requires the Governor's Office of Emergency Services (OES) to obtain and maintain state delegation of the federal accidental release prevention program. California's program will contain all of the federal program's features, plus some California-specific attributes, e.g., consideration of potential seismic events. Also the California adaptation is likely to require more facilities to develop risk-management plans than the federal program.
- In 1994, state law established the Standardized Emergency Management System (SEMS) which addresses California's responsibility to mitigate the effects of emergency situations including hazardous materials incidents. Under regulations developed by OES, SEMS standardizes the response to emergencies involving multiple jurisdictions or multiple agencies. It requires emergency response agencies to use basic principles and components of emergency management, including the Incident Command System, Multi-Agency Coordination System, operational area concepts, and established mutual aid systems. State agencies must

use SEMS. Local governments are required to use SEMS in order to be eligible for state funding for emergency response-related personnel costs.

- Since 1987, businesses that have more than a specified quantity of listed chemicals have been required to develop risk management and prevention programs at the discretion of local government agencies.
- Since 1985, businesses that handle hazardous material have been required to develop emergency plans and chemical inventories and submit the plans to local government agencies. The inventory requirements are parallel to those under the federal SARA, Title III laws. However, California law covers more chemicals and businesses (Chapter 6.95 of the California Health and Safety Code).
- State law requires OES to adopt a unified format for hazardous materials emergency plans. This format will incorporate the emergency planning requirements of six separate state programs.

Enforcement Efforts

The state is enforcing its right-to-know law, enacted in 1985. Local government and the state are given broad civil and criminal enforcement authority under state law. Local governments have successfully prosecuted businesses under state law.

Potential Liability of SERC and LEPC Members

According to a January 26, 1988, memorandum from the Department of Justice, Office of the Attorney General, to the Office of Emergency Services, as long as the Chemical Emergency Planning and Response Commission and LEPC members are acting within the course and scope of their duties, they will be defended and indemnified by the state, except where they act with actual fraud, corruption, or malice, or willfully fail or refuse to cooperate in their defense by the state.

Related Information

- The SERC approved the LEPC-developed "Media and Public Information Functions for Hazardous Materials for Statewide Information."
- OES cosponsors "The Continuing Challenge," an annual conference for hazardous materials emergency planners and responders.
- OES is cosponsoring the statewide Community Awareness and Emergency Response (CAER) conference.
- OES has produced a technical assistance video and instructional manual titled "A Guide to Developing Hazardous Materials Exercises."
- OES assisted in the development of an informational pamphlet titled "Protecting Your Health from a Chemical Spill," authored by the California Environmental Protection Agency.

The division also prepared the following guidance documents which can be found on their Web site:

- California Hazardous Material Spill/Release Notification Guidance;*
- Hazardous Material Incidence Contingency Plan;*
- California Accidental Release Prevention Program;* and
- Chemicals and Your Health.*

SERC Members

Director, Governor's Office of Emergency Services;
Secretary, Business, Transportation, and Housing Agency;
Secretary, State Consumer Services Agency;
Secretary, Health and Welfare Agency;
Director, Department of Food and Agriculture;
Secretary, Resources Agency;
Secretary, California Environmental Protection Agency;
Director, Department of Industrial Relations;
Six local planning district representatives (elected by each district committee); and
Three representatives of local government.

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Colorado

<i>Commission Name</i>	Colorado Emergency Planning Commission (CEPC)
<i>Legal Basis</i>	Originally formed by Executive Order from the Governor, now established by Colorado House Bill (HB) 90-1238, effective May 31, 1990, and HB 93-1245, effective June 6, 1993.
<i>Commission Format</i>	Five state agencies/divisions, two local government representatives, two industry representatives, one environmentalist, one right-to-know representative, one LEPC at-large representative, and one Colorado state patrol representative.
<i>Commission Co-Chairs</i>	Director, Office of Emergency Management (OEM) Department of Local Affairs (DOLA) (303) 273-1622 or (303) 273-1783 Director, Hazardous Material and Waste Management Division (HM/WM) Colorado Department of Public Health and Environment (303) 692-3019
<i>Commission Address</i>	Colorado Emergency Planning Commission (CEPC) 4300 Cherry Creek Drive South Denver, Colorado 80222
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning and training: Office of Emergency Management and Division of Fire Safety■ Right-to-know: Colorado Department of Public Health and Environment■ Section 313 data: Colorado Department of Public Health and Environment
<i>State Costs and Approaches to Funding</i>	Currently, all Title III costs are borne by existing state agency budgets.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none">■ Currently fifty-six LEPDs and fifty-six LEPCs appointed.■ Existing state law requires local jurisdictions to write and maintain local emergency operations plans and appoint designated emergency response authorities.

Related State Laws

- Title 24, Article 33.5, Part 7 (Colorado Revised Statutes), The Colorado Disaster Act
- Title 29, Article 22 (Colorado Revised Statutes), The Colorado Hazardous Substance Act
- Title 43, Article 6 (Colorado Revised Statutes), The Colorado Permitting and Routing of Hazardous Materials Act
- Title 23, Article 33 (Colorado Revised Statutes), concerning implementation of Title III in Colorado, limitations on liability and adoption of forms

Potential Liability of SERC and LEPC Members

Section 24-33-2605 (Colorado Revised Statutes) grants limited governmental immunity to both the CEPC and LEPC members.

CEPC Members

- *Director, Office of Emergency Management (co-chair);
 - *Director, Division of Hazardous Materials and Waste Management, Department of Public Health and Environment (co-chair);
 - *Director, Division of Fire Safety, Department of Public Safety;
 - *Director, Division of Local Government, Department of Local Affairs;
 - Two public interest groups;
 - Two industry representatives;
 - Two local government representatives;
 - One LEPC at-large representative; and
 - One Colorado state patrol representative.
- *or designees.

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Connecticut

<i>Commission Name</i>	Connecticut State Emergency Response Commission
<i>Legal Basis</i>	Connecticut General Statute 22a:600-611
<i>Commission Format</i>	Nine public representatives appointed by the Governor and nine statutory members representing state agencies.
<i>Chair</i>	Designated by the Governor. The Commission recommends that the Governor appoint one of the public representatives as chairman.
<i>Commission Address</i>	Connecticut State Emergency Response Commission Department of Environmental Protection Bureau of Waste Management 79 Elm Street, 4th Floor Hartford, Connecticut 06106-5127 (860) 424-3373
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Office of Emergency Management and State Commission on Fire Prevention and Control (first responder and local government training)■ Right-to-know: SERC staff

*State Costs and
Approaches to Funding*

- Recipient of Sections 302, 311, 312, and 313 data: Department of Environmental Protection

Approximately \$100,000 is budgeted annually from general funds. Many administrative costs are absorbed by state agencies.

*Local Emergency
Planning Districts and
Committees*

Connecticut's 155 LEPCs submitted, reviewed, and updated plans to the SERC by August 1998.

Related State Laws

- Labeling Requirements and Notification to Local Fire Marshals Act, 1983
- Education and Training for Employees in the Workplace Act, 1982
- Civil Penalties for Violations of the Worker Right-to-Know Act, 1981
- Accidental Release Reporting Act (CGS 22a-450)
- Right-to-Know Law Concerning Reproductive Health Hazards Act, 1981
- Information and Notice Requirements for Employers Using Carcinogens in the Workplace Act, 1980

Enforcement Efforts

- The state is enforcing its own right-to-know laws.
- Section 22a-605 of the Connecticut General Statutes authorizes the state Department of Environmental Regulation to adopt regulations for state enforcement of Title III.

*Potential Liability of
SERC and LEPC
Members*

An advisory letter from the attorney general of Connecticut concluded that SERC members qualify as state employees under Connecticut law and will therefore be indemnified for an act or omission committed within the scope of their employment or service when the act or omission is not wanton, reckless, or malicious. C657-101a and 7-465 provide limited protection to LEPC members from personal liability.

Related Information

- A SERC-appointed LEPC Advisory Task Force published a *Guidance Manual for LEPCs*. The manual was distributed to elected officials and LEPC chairs.
- The SERC sponsors an annual LEPC conference for LEPC members that consists of two days of educational workshops.
- Connecticut Business and Industry Association developed and distributed an emergency resource manual for local fire chiefs and LEPC chairs.
- The SERC, Connecticut Department of Environmental Protection, federal and state OSHA, Connecticut Bureau of State Fire Marshals, and the Connecticut Business and Industry Association developed a compliance guide for training and reporting required under their programs. The guide was updated in 1998.

- An LEPC task force on accidental toxic chemical releases published a document in 1996 outlining steps that industry and communities can adapt to their specific needs and use in preparing for and responding to a chemical emergency.

SERC Members

Statutory Members:

- Commissioner, Department of Environmental Protection;
- Commissioner, Department, of Public Safety;
- Commissioner, Department of Labor;
- Director, Office of Emergency Management;
- Commissioner, Department of Public Health;
- State fire marshal;
- Commissioner, Department of Transportation;
- State fire administrator;
- Director, Office of Policy and Management; and
- Nine members appointed by the Governor:
 - Four members representing the public;
 - Three members representing owners or operators of facilities; and
 - One chief of a volunteer fire department; and
 - One chief of a paid fire department.

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Delaware

<i>Commission Name</i>	Delaware State Emergency Response Commission
<i>Legal Basis</i>	House Bill 250, effective July 1, 1991
<i>Commission Format</i>	Based on the existing Hazardous Material Commission and also includes representatives from local emergency planning committees.
<i>Chair</i>	Secretary, Department of Public Safety
<i>Commission Address</i>	Delaware State Emergency Response Commission Department of Public Safety P.O. Box 818 Dover, Delaware 19903 (302) 739-4321 www2.state.de.us/serc/index.htm
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Delaware Emergency Management Agency, Department of Public Safety ■ Worker right-to-know: Bureau of Environmental Health, Health and Social Services Department ■ Recipient of Sections 302, 304, 311, 312, and 313 data: Division of Air and Waste Management, Department of Natural Resources and Environmental Control

*State Costs and
Approaches to Funding*

In July 1991, the state instituted a system of fees on covered facilities. Funds generated by the fees are used to support the LEPCs, cover the costs of maintaining a centralized EPCRA database, and provide SERC staff support.

*Local Emergency
Planning Districts and
Committees*

- The state currently has a total of four planning committees and districts.
- The SERC reviewed all LEPC emergency plans in 1998.

Related State Laws

- Hazardous Chemical Information Act, 1984
- Amended Extremely Hazardous Substances Risk Management Act (1998)

*Enforcement Efforts
Potential Liability of
SERC and LEPC
Members*

The state is enforcing its Hazardous Chemical Information Act.

The state indemnifies members for actions in connection with the performance of official duties when the act is carried out in good faith and without gross negligence or wanton misconduct. The member shall be indemnified by the state against any expenses (including attorney's fees and disbursements), judgments, fines, and costs actually or reasonably incurred by a member in defending against the action. In addition, HB177 (1989) grants limited immunity from liability to LEPC members.

Related Information

- The Delaware Hazardous Chemical Information Act establishes a right-to-know (RTK) program designed to inform and protect workers and the public from the dangers of hazardous chemicals.
- The Accidental Release Prevention Regulation of January 1999 is being integrated into the Delaware RTK program. Staff from the Bureau of Environmental Health, Department of Health and Social Services perform on-site surveys of all municipal and school buildings. Right-to-know information is entered into a computerized database. The bureau also conducts an outreach program designed to inform and educate the public regarding toxic threats.

SERC Members

The head or designated representatives of the following agencies and organizations:

Department of Public Safety;
Division of State Police;
Delaware Emergency Management Agency;
Department of Natural Resources and Environmental Control;
Public Health Division, Department of Health and Social Services;
Bureau of Environmental Health, Public Health Division;
Department of Transportation;
State fire marshal;
State Fire Prevention Commission;
State Fire Services Center;

Representatives of shippers, users, rail, air, highways, and consignees of hazardous materials; and

Chair of each LEPC.

District of Columbia

<i>Commission Name</i>	District of Columbia State Emergency Response Commission
<i>Legal Basis</i>	Mayor's Order No. 88-214, September 23, 1988
<i>Commission Format</i>	One agency
<i>Chair</i>	Director, District of Columbia Emergency Management Agency
<i>Commission Address</i>	District of Columbia Office of Emergency Preparedness 2000 14th Street N.W. 8th Floor Washington, D.C. 20009 (202) 727-6161
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: D.C. Emergency Management Agency■ Right-to-know: D.C. Emergency Management Agency■ Recipient of Section 313 data: D.C. Emergency Management Agency
<i>State Costs and Approach to Funding</i>	D.C. officials estimate that \$50,000 in general funds will be used for chemical emergency planning in fiscal 2000.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none">■ The LEPC has subcommittees on plans, capability and equipment; hazards identification and analysis; rules and regulatory compliance; transportation; and communications and public information.■ The one LEPC is chaired by the Director of the Emergency Management Agency.■ The LEPC completed a revision of the District of Columbia SARA Title III Comprehensive Hazardous Materials Emergency Response Plan in January 1999.
<i>Related State Laws</i>	<ul style="list-style-type: none">■ Occupational Safety and Health Act, 1992■ Hazardous Materials Transportation and Motor Carrier Safety Act, 1988, as amended.
<i>Enforcement Efforts</i>	The Metropolitan Police Department enforces CFR 49 (governing transportation of hazardous materials) under local enabling legislation enacted in 1992.
<i>Related Information</i>	<ul style="list-style-type: none">■ The Mayor's Emergency Preparedness Policy Council, composed of fifteen city department directors, advises the director of the D.C. Emergency Management Agency and discusses hazardous materials issues.■ The Chief of the Plans and Training Division, D.C. Emergency Management Agency, serves as staff to the LEPC and the SERC.■ Brochures were published in 1994 on the following subjects: planning, information, transportation, and education.■ Videotapes of field exercises are used for training purposes.

LEPC Members

D.C. Emergency Management Agency;
 D.C. Fire and Emergency Services;
 D.C. Department of Public Works;
 D.C. National Guard;
 D.C. Department of Human Services;
 Office of Property Management;
 Metropolitan Police Department;
 D.C. Office of Communications;
 D.C. Office of Planning;
 D.C. Public Library;
 D.C. Department of Health;
 D.C. Consumer and Regulatory Agency;
 D.C. Public Schools;
 US Food and Drug Administration;
 Bureau of Engraving and Printing;
 Environmental Protection Agency;
 American Red Cross;
 US Park Service;
 D.C. Chamber of Commerce;
 D.C. Poison Center;
 D.C. Corporation Council; and
 Representatives from environmental and consumer groups.

Florida

<i>Commission Name</i>	Florida State Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 98-155 Established April 17, 1987
<i>Commission Format</i>	Expansion of the Governor's Hazardous Materials Task Force. The commission includes representatives from state agencies, local government, industry, emergency response organizations, and environmental and consumer groups.
<i>Chairs</i>	Secretary, Department of Community Affairs (chair), and Director, Division of Emergency Management, Department of Community Affairs (alternate)
<i>Commission Address</i>	Florida State Emergency Response Commission Department of Community Affairs Division of Emergency Management 2555 Shumard Oak Boulevard Tallahassee, Florida 32399 (850) 413-9900 www.dca.state.fl.us/cps/serc/serc.htm

Agency Roles

- Emergency planning and community right-to-know: Department of Community Affairs, Division of Emergency Management
- Worker right-to-know: Department of Labor and Employment Security
- Recipient of Section 313 data: Department of Community Affairs, Division of Emergency Management

State Costs and Approaches to Funding

- Florida's Hazardous Materials Emergency Response and Community Right-to-Know Act establishes a fee structure and includes penalty provisions. The act requires Section 302 facilities to submit a one-time filing fee of \$50. Facilities must also pay an annual registration fee ranging from \$25 to \$2,000 based on the number of employees (\$10 per employee) employed within the state. Facilities not required to report under Section 302 may pay a reduced fee ranging from \$25 to \$500 (as provided for in Florida Statutes Chapter 368, Chapter 527, and Subchapter 576.303). Government entities are exempt from paying annual registration fees.
- The state also imposes late fees and penalty fees on facilities failing to report chemical information or intentionally submitting false information.
- A Section 313 fee of \$150 per Section 313 Form R report and \$75 per Section 313 Form A report went into effect for the July 1998 reporting cycle and continues.

Local Emergency Planning Districts and Committees

- Eleven regional LEPD and LEPC plans have been completed. In addition, all sixty-seven counties prepare site-specific hazards analyses for section 302 facilities. All plans were updated during fiscal year 1998-99.
- The SERC is funding the eleven regional planning councils (RPCs) to provide staff support, technical assistance, and access for community right-to-know. In addition, the SERC is offering money to the sixty-seven counties to assist with hazards analyses.
- The RPCs are aggregates of the state's sixty-seven counties and were formed prior to the establishment of EPCRA.

Related State Laws

- Hazardous Materials Emergency Response and Community Right-to-Know Act, 1988
- Worker Right-to-Know Act, 1985

Enforcement Efforts

The state is enforcing its Hazardous Materials Emergency Response and Community Right-to-Know Act, enacted in 1988.

Potential Liability of SERC and LEPC Members

Under current Florida law, volunteers (including SERC and LEPC members) in government service acting within the course and scope of their employment or service appear to be immunized from personal liability. It is further provided that the affected agency, at its discretion, may provide a legal defense for the volunteer. If the agency does not provide defense and the volunteer prevails in an action

against him or her, the agency shall reimburse the volunteer the reasonable costs and attorney's fees incurred by the volunteer in the action.

Related Information

The Governor's Hazardous Materials Task Force was established under the State Comprehensive Emergency Management Plan.

SERC Members

SERC membership includes the following:

Secretary, Department of Community Affairs;
Director, Division of Emergency Management, Department of Community Affairs;
Representative, Executive Office of the Governor;
Representative, Department of Environmental Protection;
Representative, Department of Law Enforcement;
Representative, Department of Labor and Employment Security;
Representative, Department of Transportation;
Representative, Department of Insurance;
Representative, Florida League of Cities;
Representative, Florida Association of Counties;
Representative, Florida Regional Planning Council Association;
Representative, Manufacturing and Chemical Council;
Representative, Florida Phosphate Council;
Representative, Florida Power Corporation;
Representative, Associated Industries of Florida;
Representative, Fire Chiefs' Association;
Representative, State Fire Chiefs' Association;
Representative, Department of Health, Office of Emergency Medical Services;
Representative, Florida Professional Firefighters;
Representative, Department of Agriculture and Consumer Services;
Representative, Seminole Tribe of Florida;
Representative, petroleum industry;
Representative, LP gas industry;
Representative, Florida Emergency Preparedness Association;
Representative, agriculture industry;
Chairperson of an LEPC; and
Representatives from environmental and consumer groups.

Georgia

<i>Commission Name</i>	Georgia State Emergency Response Commission
<i>Legal Basis</i>	Executive Order by Governor
<i>Commission Format</i>	Six state agencies, a representative of the State Board of Regents, and an LEPC chair
<i>Chair</i>	Commissioner, Department of Natural Resources
<i>Commission Address</i>	Georgia Department of Natural Resources 7 Martin Luther King Jr. Drive Suite 139 Atlanta, Georgia 30334 (404) 656-3500
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Georgia Emergency Management Agency (GEMA), and Environmental Protection Division (EPD), Department of Natural Resources (Section 302 planning notification) ■ Right-to-know: EPD, Department of Natural Resources ■ Recipient of Section 313 data: EPD, Department of Natural Resources ■ Implementing Agency for Section 112r, Clean Air Act: Environmental Protection Division, Department of Natural Resources.
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none"> ■ Title III activities are supported by designated general funds and existing state agency budgets. ■ The state anticipates that administration of the program at the state-agency level will cost approximately \$250,000 annually.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ The SERC has designated nine planning districts: Atlanta/Fulton County, Chatham County, Richmond County, and the others covering the remainder of the state. ■ The SERC is in the process of establishing additional LEPCs at the county level.
<i>SERC Members</i>	Commissioner, Department of Natural Resources; Commissioner, Department of Community Affairs; Commissioner, Department of Human Resources; Director, Georgia Emergency Management Agency; Commissioner, Department of Labor; Representative, State Board of Regents; Director, Georgia Environmental Protection Division; and Chair, Local Emergency Planning Committee.

Guam

Note: Updated information for Guam was not available at time of publication.

<i>Commission Name</i>	Guam State Emergency Response Commission
<i>Legal Basis</i>	Members were appointed by the authority of the Governor
<i>Commission Format</i>	The twelve-member commission is made up of representatives from the government of Guam.
<i>Chair</i>	Dean of Arts and Sciences, University of Guam
<i>Commission Address</i>	State Emergency Response Commission c/o Civil Defense/Guam Emergency Services Office P.O. Box 2877 Agana, Guam 96910
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Civil Defense/Guam Emergency Services Office ■ Right-to-know: Civil Defense/Guam Emergency Services Office ■ Recipient of Section 313 data: Guam Environmental Protection Agency
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none"> ■ Approximately \$5,000 in general funds have been spent on emergency planning efforts and \$20,000 on right-to-know activities. ■ The SERC is using in-kind contributions from various government agencies to fund Title III costs. ■ Guam officials estimate that it will cost approximately \$75,000 annually to support the Title III program.
<i>Local Emergency Planning Districts and Committees</i>	On October 5, 1988, nine representatives within the various government of Guam agencies and departments were appointed to serve as members of the local emergency planning committee. As members of the LEPC, they are given the responsibility of developing a territorial hazardous materials contingency plan and establishing and overseeing a Title III right-to-know program.
<i>Related State Laws</i>	Hazardous Substance Protection Act, P. L. 1919
<i>SERC Members</i>	Director, Civil Defense/Guam Emergency Services Office; Representative, Public Health and Social Services; Representatives, Civil Defense/Guam Emergency Services Office; Chief, Guam Fire Department; Deputy Chief, Guam Police Department; Port Authority of Guam; Department of Public Works; Guam Memorial Hospital Authority; Guam Environmental Protection Agency; Department of Labor; and Office of the Attorney General.

Hawaii

<i>Commission Name</i>	Hawaii State Emergency Response Commission
<i>Legal Basis</i>	Chapter 128E, Hawaii Revised Statutes
<i>Commission Format</i>	Eight state agencies, two academic officials, a representative from the American Red Cross, and an LEPC representative from each county.
<i>Chair</i>	Director, Department of Health
<i>Commission Address</i>	Hawaii State Emergency Response Commission (HSERC) Department of Health Division of Environmental Health P.O. Box 3378 Honolulu, Hawaii 96801 (808) 586-4249
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Hazard Evaluation and Emergency Response Program, Department of Health ■ Right-to-know: Hazard Evaluation and Emergency Response Program, Department of Health ■ Recipient of Section 313 data: Hazard Evaluation and Emergency Response Program, Department of Health
<i>State Costs and Approaches to Funding</i>	\$95,500 in revolving funds will be dispersed in fiscal 2000 to implement Title III activities.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ The Hawaii State and Hawaii LEPC plans are currently being revised. ■ Each county had an existing emergency management plan and a local civil defense agency prior to enactment of Title III.
<i>Potential Liability of SERC and LEPC Members</i>	<p>Section 128E-10, Hawaii Revised Statutes, Immunity from Civil Liability. (a) No employee, representative, or agent of a state or county agency, or persons requested by a state or county agency to engage in any emergency service or response activities involving a hazardous material release at a facility or transportation accident site shall be liable for the death of or any injury to persons, or the loss of or damage to property, resulting from that hazardous material release, except for any acts or omissions that constitute willful misconduct.</p> <p>(b) No commission or committee member shall be liable for the death of or injury to persons, the loss of or damage to property or any civil damages, resulting from any act or omission arising out of the performance of the functions, duties, and responsibilities of the commission or a committee, except for acts or omissions that constitute willful misconduct.</p>
<i>SERC Members</i>	<p>Director, Department of Health;</p> <p>Adjutant General, Department of Defense;</p> <p>Director, Department of Labor and Industrial Relations;</p> <p>Director, Department of Transportation;</p> <p>Director, Department of Business and Economic Development;</p> <p>Director, Office of Environmental Quality Control;</p>

Chair, Board of Agriculture;
 Chair, Board of Land and Natural Resources;
 One representative from each of the four counties;
 Manager, Hawaii State Chapter, American Red Cross;
 Dean, University of Hawaii, School of Public Health; and
 Director, University of Hawaii, Environmental Center.

Idaho

<i>Commission Name</i>	State of Idaho Military Division
<i>Legal Basis</i>	Idaho Hazardous Substance Response Act, 1996
<i>Commission Format</i>	The SERC function is vested in the military division in Idaho.
<i>Commission Address</i>	Idaho Bureau of Hazardous Materials 4040 Guard Boise, Idaho 83705 (208) 334-3263 www2.state.id.us/serc/index.html
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Bureau of Disaster Services and the Bureau of Hazardous Materials ■ Right-to-know: Bureau of Hazardous Materials ■ Recipient of Section 313 data: Bureau of Hazardous Materials
<i>State Costs and Approaches to Funding</i>	For emergency planning efforts and right-to-know activities, the state has budgeted \$325,000, which is drawn from the general fund annually.
<i>Local Emergency Planning Districts and Committees</i>	The state's forty-four counties are LEPCs.
<i>Related State Laws</i>	Idaho Hazardous Substance Response Act, 1991. Gives the Military Division authority to create regional response teams and to create and update the state chemical and radiological response plans, and gives rulemaking authority to the division for reimbursement of response costs to local governments.
<i>Enforcement Efforts</i>	Enforcement efforts are coordinated with EPA Region 10. The state is concentrating its efforts on public outreach to inform the public and potentially covered facilities about Title III requirements and compliance procedures.
<i>Potential Liability of SERC and LEPC Members</i>	The Idaho code provides limited immunity to the Military Division and LEPC members whose performance is not willful or wantonly negligent. These members shall also be entitled to a contribution of indemnification or reimbursement for legal fees and expenses from their employers, unless a court shall find that the act or omission of the employee was outside the course and scope of his or her employment or included malice or criminal intent.
<i>Related Information</i>	<ul style="list-style-type: none"> ■ Bureau staff regularly conducts compliance workshops for industry organizations.

- Data management for community right-to-know is centralized at the bureau using CAMEO.
- The bureau has an active technical assistance program to help local governments with hazards analysis.
- The bureau maintains Idaho's Hazardous Materials Incident Command and Response Support Plan, which includes radiological response.

SERC Members

The SERC function is vested in a single agency in Idaho—the Military Division—and delegated to the Bureau of Hazardous Materials.

Illinois

Commission Name

Illinois State Emergency Response Commission

Legal Basis

State Law-430ILCS100, "Illinois Emergency Planning and Community Right to Know Act" (IEPCRA).

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Commission Format

One state agency

Chair

Director, Emergency Management Agency

Commission Address

Illinois Emergency Management Agency
110 East Adams Street
Springfield, Illinois 62701-1109
(217) 782-8712

Agency Roles

- Emergency planning: Emergency Management Agency
- Right-to-know: Emergency Management Agency
- Recipient of Section 313 data: Office of Chemical Safety, Illinois Environmental Protection Agency

State Costs and Approaches to Funding

The Emergency Management Agency spent approximately \$475,000 in general funds on Title III-related activities in fiscal 1999. Currently pursuing an IEPCRA filing fee system.

Local Emergency Planning Districts and Committees

In 1987 the state's 102 counties and the city of Chicago were designated as local emergency planning districts. Cook County will be soon divided into three sub-districts, after which there will be 105 districts in the state.

Related State Laws

- Chemical Safety Act, 1985
- Illinois Emergency Planning and Community Right-to-Know Act, 1989

Enforcement Efforts

- The state is enforcing its Chemical Safety Act and IEPCRA.
- The SERC referred 8 IEPCRA cases to the Illinois Attorney General in 1999. Six of these cases have been settled.

Potential Liability of SERC and LEPC Members

An opinion from the attorney general declared that SERC and LEPC members have only limited liability under SARA and that they would be entitled to a defense by the attorney general in the event of legal action against them.

Related Information

- An advisory committee was recently formed to provide input to the Emergency Management Agency. This broad-based group consists of representatives from the following agencies and organizations:
 Illinois Environmental Protection Agency;
 Office of the Attorney General;
 Office of the state fire marshal;
 Department of Commerce and Community Affairs;
 Illinois Chamber of Commerce;
 Department of Transportation;
 Department of Agriculture;
 Department of Public Health;
 Department of Natural Resources;
 Illinois Environmental Regulatory Group of the State Chamber; and
 A liaison of EPA.
- In December 1984, the Governor created a chemical safety task force. The twenty-member task force, comprised of public safety, industry, and environmental experts, was responsible for reviewing industrial safety procedures and improving emergency response efforts in the event of a chemical accident. As a result of task force findings, in September 1985, the Governor signed into law the Illinois Chemical Safety Act. The legislation requires certain businesses to adopt chemical safety contingency plans and enhances the preparedness of responders in chemical emergencies.
- Passage of the Illinois Chemical Safety Act created the Hazardous Materials Advisory Board to assist state and local government and industry in dealing with hazardous materials. The board focuses on issues such as planning, training, emergency management, and response. The Fire Service Institute works with the board and the state fire marshal in developing training courses for emergency response officials.

SERC Members

Representatives from the Emergency Management Agency

Indiana

<i>Commission Name</i>	Indiana Emergency Response Commission
<i>Legal Basis</i>	State Law (Senate Bill 392, signed July 1, 1992) Indiana code, Title 13, Article 7, Chapter 36
<i>Commission Format</i>	Four state agencies, three representatives from industry, three representatives of local government, and three from the general public.
<i>Chair</i>	Director, Indiana State Emergency Management Agency
<i>Vice Chair</i>	Commissioner, Indiana Department of Environmental Management

Commission Address

Indiana Emergency Response Commission
State Emergency Management Agency
302 West Washington Street
Room E-208
Indianapolis, Indiana 46204-2760
(317) 232-3830
(317) 233-7745 24-hour emergency notification
(317) 232-3830 Administrative calls
www.state.in.us/ierc

Agency Roles

- Emergency planning: State Emergency Management Agency and Department of Environmental Management (DEM)
- Right-to-know: DEM, 100 North Senate, P.O. Box 7024, Indianapolis, Indiana 46207-7024
- Recipient of Section 313 data: DEM, Office of Pollution Protection and Technical Assistance.

State Costs and Approaches to Funding

- IC 6-6-10 established the Local Emergency Planning and Right-to-Know Fund. This law requires facilities that submit Section 312 hazardous chemical inventory forms to pay a fee ranging from \$50 to \$200. Facilities that store at any one time any chemical in excess of one million pounds must pay a \$200 fee. All other facilities pay a \$100 fee, except those facilities subject to underground storage tank (UST) regulations that store chemicals only in USTs. These facilities are assessed a \$50 fee. The fund is designed to generate approximately \$500,000 to \$700,000 each year.

From the fund, each LEPC receives a base amount of \$2,500 plus a percentage of the remainder of the revenues, based on the number of reporting facilities in each district. This distribution is designed to provide each LEPC with a guaranteed minimum working amount and also to provide LEPCs that have performed effective outreach or that have a more industrial district with a proportionately greater share of the fund.

- The law provides for the money to be used for the following activities:
 1. Preparing and updating the Section 303 emergency response plan;
 2. Establishing and implementing procedures for receiving and processing requests from the public for information about hazardous chemicals;
 3. Training for emergency response planning, information management, and hazardous materials incident response;
 4. Equipping a district-wide hazardous materials response team;
 5. Purchasing communications equipment for LEPC's administrative use;
 6. Paying an optional stipend to LEPC members who attend regularly scheduled meetings; and

7. Paying for Title III risk communication, chemical accident related, and accident prevention projects submitted to and approved by the Indiana SERC.

- The state may withhold local funding for failure to provide annually to the commission one of the following:

1. The report required under IC-6-6-10-9, Section 8;
2. Proof of published legal notice;
3. An updated version of the LEPC's emergency preparedness plan;
4. A copy of the current bylaws of the LEPC;
5. Evidence of an exercise of the response plan;
6. A roster of the current LEPC membership; and
7. Minutes of the LEPC meetings, conducted at least once every three months.

- Approximately \$600,000 was spent in fiscal 1998 to implement Title III activities. Title III activities are supported almost exclusively by funds raised through fee collection, with 10 percent going to SERC support and 90 percent to LEPC support.

- The DEM's Office of Environmental Response received partial funding from state appropriations for fiscal 1987 to create four positions to support the Title III program. The positions include one half-time and two full-time staff members.

*Local Emergency
Planning Districts and
Committees*

- Indiana's ninety-two counties serve as local emergency planning districts.

- All of the ninety-two county LEPCs annually submit local emergency plans.

- Most counties had emergency management structures in place prior to the enactment of Title III.

Related State Laws

The Local Emergency Planning and Right-to-Know Fund, revised 1997

Enforcement Efforts

The SERC has developed an enforcement tracking system that allows for local and state interaction and resolution of potential enforcement actions. Compliance issues are generally resolved through meetings with the responsible party and SERC officials. Cases where lack of compliance or Section 304 violations have caused serious health or environmental threats or damage generally are forwarded to U.S. EPA for consideration.

*Potential Liability of
SERC and LEPC
Members*

LEPC members are subject to personal liability not only for tortious conduct committed outside the scope of their duties, but also for negligence in connection with their performance of ministerial (as opposed to discretionary) functions. The LEPC members should be protected from liability for discretionary decisions or functions. The information provided by the attorney general's office spoke only to LEPC members' potential tort liability, though it appears that the same should also apply to SERC members.

Related Information

The commission has six standing committees that study issues and make recommendations to the SERC: policy, fiscal, training, technical, legislative, and communication.

SERC Members

Representatives of:

State Emergency Management Agency;
State fire marshal;
Department of Environmental Management;
State police;
Local governmental officials (3);
Industry representatives (3); and
Private citizens (3).

Iowa

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<i>Commission Name</i>	Iowa Emergency Response Commission
<i>Legal Basis</i>	Iowa Administrative Code Chapter 30
<i>Commission Format</i>	State agencies and two officials from industry
<i>Chair</i>	Maintenance services engineer, Department of Transportation
<i>Commission Address</i>	Iowa State Emergency Response Commission 1000 East Grand Avenue Des Moines, Iowa 50319 (515) 281-6175
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Emergency Management Division, Department of Public Defense■ Right-to-know: Labor Division, Department of Employment Services■ Recipient of Section 313 data: Department of Natural Resources
<i>State Costs and Approaches to Funding</i>	In fiscal 2000, \$88,500 is devoted to EPCRA planning, \$194,183 is devoted to training activities and support of EPCRA activities, and \$42,000 is devoted to right-to-know activities and management of reported data.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none">■ State law requires each county to establish a Joint County Emergency Management Services and Emergency Planning Administration composed of elected officials who work on local contingency planning.■ The Joint County Emergency Management Services and Emergency Planning Administration staff coordinates with the LEPCs on planning activities only.
<i>Related State Laws</i>	Hazardous Chemical Risks Right-to-Know Act, 1987
<i>Enforcement Efforts</i>	The state is enforcing its Hazardous Chemical Risks Right-to-Know Act.

Related Information

Each county's public library will receive a complete set of Tier II data for public access.

SERC Members

Deputy Attorney General, Department of Justice

The head or designated representatives from the following agencies and organizations:

Office of the Governor;

Office of the Attorney General;

Department of Natural Resources;

Emergency Management Division, Department of Public Defense;

Department of Health;

Department of Public Safety;

Department of Transportation;

Department of Employment Services;

Iowa State Fire Extension Service;

Department of Agriculture; and

Two industry representatives.

Kansas

Commission Name

Kansas Commission on Emergency Planning and Response

Legal Basis

The Kansas Emergency Planning and Community Right-to-Know Act (KSA 65-5701 et seq.)

Commission Format

Six state agencies, two representatives of counties, two representatives of cities, and three representatives of business and industry.

Chair

Elected by the commission

Commission Address

Commission on Emergency Planning and Response
c/o Adjutant General
State Defense Building
2800 South Topeka Boulevard
Topeka, Kansas 66611
www.ink.org/public/kdem/main.html

Agency Roles

- Emergency planning/training of first responders: Office of the Adjutant General, Division of Emergency Management
- 304 notification, Division of Emergency Management
- Right-to-know: Kansas Department of Health and Environment (KDHE), Hazardous Chemical Information Unit (HCIU)
- Recipient of Section 313 Data: KDHE, Right-to-Know Program

State Costs and Approaches to Funding

- The Kansas Emergency Planning and Community Right-to-Know Act authorizes the Department of Health and Environment to establish a fee system to cover all or part of the cost of Title III. The fee structure is based primarily on the quantity of hazardous chemicals stored or released. The act established the Section 313

toxic chemical release inventory fee and a single annual Tier II fee for hazardous chemical storage. Under the state's fee system, single facilities pay a maximum fee of \$3,000 per year and there is a flat fee for oil and gas production facilities owned or operated by the same entity.

- The Kansas Division of Emergency Management (KDEM) received the salary for one full-time planner position in state general appropriations for implementation of Title III in state fiscal 1999.
- KDHE received \$374,000 in combined state general funds and fee appropriations for implementation of Title III in state fiscal 1998.
- KDEM published a "1998 Progress Report" on the status of the local emergency planning process.
- Several LEPCs proposed fees for fire service inspections and other Title III activities, but none have been implemented to date.
- Chemical plans for all 105 LEPCs are reviewed every four years.
- All of the LEPCs exercise their Title III plans annually.

*Local Emergency
Planning Districts and
Committees*

Related State Laws

- Kansas Emergency Planning and Community Right-to-Know Act (KSA 65-5701), 1987.
- Executive Reorganization Order 29 amends KSA 65-5701 changing membership of the commission on emergency planning and response.

Enforcement Efforts

Enforcement authority is granted to the attorney general, KDHE, and the adjutant general under state statute equivalent to that given to U.S. EPA under Title III, including civil and criminal penalties. State agencies may delegate enforcement to local prosecutors. If a local prosecutor recovers penalties or fines from facilities, the fee amounts are split between state and local governments. KDHE has a compliance and enforcement policy approved by the secretary. This policy outlines compliance efforts and enforcement options. KDHE and EPA region VII also have signed a memorandum of agreement to share information and compliance and enforcement responsibilities.

*Potential Liability of
Commission and LEPC
Members*

State law provides limited immunity from liability to Commission and LEPC members.

Commission Members

Agency head, secretary or designee of the following:

Department of Health and Environment;

Adjutant General;

Kansas Highway Patrol;

Department of Transportation;

State fire marshal;

Two representatives from counties;

Two representatives from cities; and

Three representatives from business and industry.

Kentucky

<i>Commission Name</i>	Kentucky Emergency Response Commission
<i>Legal Basis</i>	Kentucky Revised Statutes 39E
<i>Commission Format</i>	Seven state agencies, representatives of industry and associations, an academician, private citizens, and representatives of environmental groups.
<i>Chair</i>	Director, Kentucky Division of Emergency Management, Department of Military Affairs
<i>Commission Address</i>	Kentucky Division of Emergency Management ATTN: KYERC Boone Center Frankfort, Kentucky 40601-6168 (502) 564-5223 http://webserve.dma.state.ky.us/sara/kyerc_1.htm
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Disaster and Emergency Services ■ Right-to-know: State Emergency Response Commission ■ Recipient of Section 313 data: State Cabinet for Natural Resources and Environmental Protection
<i>State Costs and Approaches to Funding</i>	A fee system has been established to support Title III activities at the state and local levels.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ Emergency management programs and plans were established in most counties prior to Title III. The commission strongly encouraged local emergency planning committees to review existing local government plans thoroughly for accuracy and completeness. Existing plans were used as a framework and modified to include Title III provisions in the Hazardous Materials Annex. ■ All 120 county LEPCs have their plans approved annually through the process authorized in KRS 39E. ■ Public notices of addresses and meeting locations of local emergency planning committees are published annually in newspapers throughout the state.
<i>Related State Laws</i>	<p>KRS 39E establishes a fee system:</p> <p>Category 1 - \$0: State, local and federal government facilities exempt.</p> <p>Category 2 - \$40: Facilities that have not less than 10,000 lbs. and not more than 499,999 lbs. of 10 or less hazardous substances.</p> <p>Category 3 - \$250: Facilities that have 10,000 lbs. or more of each of 11 or more hazardous substances of which the total amount does not exceed 499,999 lbs.</p> <p>Category 4 - \$250: Facilities with an inventory greater than 499,999 lbs. of a hazardous substance.</p> <p>Category 5 - \$250: Facilities with EHS chemicals.</p>

*Potential Liability of
SERC and LEPC
Members*

A memorandum dated December 28, 1987, to the SERC chair from the Office of the Attorney General, indicates that SERC or LEPC members would not be liable unless they failed to comply with mandated requirements of the law and such failure was due to gross negligence or willful misconduct.

SERC Members

Director, Division of Emergency Management, Department of Military Affairs;
Representative, Natural Resources and Environmental Protection Cabinet, Office of the Secretary;
Representative, Occupational Safety and Health, Division of Compliance;
Representative, Office of the Attorney General;
Representative, state police;
State fire marshal;
Environmental Response Supervisor, Department of Environmental Protection;
Development Director, American Lung Association;
Industry representatives;
LEPC Chairman, Boyle County;
Director, Bourbon County Disaster Services Agency;
Representative, Fayette Urban County Government;
Fire service representatives;
Chief Radioactive Materials Specialist, Division of Community Safety; and
A citizen.

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Louisiana

Commission Name

Louisiana Emergency Response Commission

Legal Basis

Executive Orders MJF-96-48, MJF-96-67, and MJF 97-14.
State Law: Hazardous Material Information Development, Preparedness, and Response Act of 1987
(R.S. 30: 2361-2380), established November 17, 1986

Commission Format

An expansion of an existing chemical council. The commission includes representatives from four state departments and offices, the Louisiana State Police/Right-to-Know Unit, an environmental group, the Louisiana State University Fireman Training Center, the Louisiana Emergency Preparedness Association, the chemical industry, and ten at-large members.

Chair

Major, Office of State Police, Region 1

Commission Address

Louisiana Emergency Response Commission
c/o Department of Public Safety and Corrections
Right-to-Know Unit

P.O. Box 66614
Baton Rouge, Louisiana 70896
(504) 925-6113

For Section 313 Form R submittals and information:

Louisiana Department of Environmental Quality
Office of the Secretary
Technical Program Support Section
P.O. Box 82263
Baton Rouge, Louisiana 70884-2263
(504) 765-0720

Agency Roles

- Emergency planning: Military Department, Office of Emergency Preparedness
- Right-to-know enforcement/emergency response: Department of Public Safety and Corrections, Office of State Police
- Recipient of Section 313 data: Department of Environmental Quality

State Costs and Approaches to Funding

- In 1997, the Louisiana Legislature amended Section 2374 of the state's law on filing fees for Tier II inventory forms. The state police are authorized to assess a filing fee based on the number of hazardous materials present at a facility for companies not meeting the definition of "small business."

Number of Hazardous Materials Present at Facility	Fee Charged
01 to 25	\$75
26 to 75	\$100
76 to 100	\$200
Over 100	\$300

There is a statewide maximum fee of \$2,000 per company/employer if multiple forms are submitted covering several facilities. Filing fees for small businesses (those that employ a maximum of nine employees and gross a maximum of \$2 million annually) are \$25 per facility.

- In calendar year 1998, \$675,100 in revenue from existing state Tier II filing fees collected and spent on right-to-know program administration and assistance to the SERC.
- Under Section 2368.D of the state law passed in 1988, local governing authorities could adopt an ordinance allowing LEPCs to collect fees from facilities within the parish pursuant to specified limits.
- In 1997, the Louisiana Legislature rescinded the authority of local governments to impose filing fees unless the LEPC had previously imposed a fee.

*Local Emergency
Planning Districts and
Committees*

The sixty-four parishes throughout Louisiana serve as local emergency planning districts with each parish having a local emergency planning committee.

Related State Laws

Louisiana's Hazardous Materials Information Development, Preparedness, and Response Act (LAR.S. 30: 2361-2380) was amended in 1987 to parallel SARA Title III wherever possible. The state law's reporting requirements largely mirror those of the federal law. However, some sections of Louisiana's law are more stringent than Title III in terms of reporting volumes. For example, 500 pounds of a hazardous chemical is the threshold quantity that triggers Tier II inventory reporting versus the 10,000 pound federal threshold. The state also has established release reportable quantities for OSHA-regulated hazardous materials not on the EHS or CERCLA lists.

Enforcement Efforts

The state is enforcing its Hazardous Materials Information Development, Preparedness, and Response Act.

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*Potential Liability of
SERC and LEPC
Members*

Under Louisiana law, SERC and LEPC members would receive limited immunity from suits for the performance of discretionary functions. Louisiana law also contains a provision that immunizes specific, noncompensated responders and local emergency planning committees.

Related Information

The Department of Public Safety and Corrections serves as lead agency for the SERC.

SERC Members

Major, Office of State Police, Transportation and Environmental Safety Section;
Major, Office of State Police, Region 1;
Assistant Administrator for the Office of Water Resources, Department of Environmental Quality;
Commissioner, Department of Agriculture;
Director, Office of Emergency Preparedness; Department of the Military;
Management Analyst and State Title III Coordinator, Louisiana State Police/Right-to-Know Unit;
Chief of the Belle Chasse Volunteer Fire Department and Board Member, Louisiana Fire Chiefs' Association;
Chief, Sulphur Fire Department;
Assistant Director of Hazardous Material, Louisiana State University Fire and Emergency Training Institute;
President, Louisiana Emergency Preparedness Association;
Lieutenant, Ouachita Parish Sheriff's Office and Hazmat instructor at North Delta Regional Training Academy, Northeast Louisiana University;
Mayor, City of Westlake;
Director, Ascension Parish Office of Emergency Preparedness;
Director, East Baton Rouge Parish Office of Emergency Preparedness;

President, P.A. Touchard Management Services, Inc.
 Director of Planning and Development, Pointe Coupee Parish
 Sheriff's Office;
 President, Citizens for a Clean Environment;
 Member, Assumption Parish Local Emergency Planning Committee;
 and
 Public Affairs Manager, DOW Chemical Company, who is a
 representative of the Louisiana Chemical Association.

Maine

<i>Commission Name</i>	Maine State Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 15 fiscal 1986-87 Established April 13, 1987
<i>Commission Format</i>	Seven state agencies, two associations, a representative from local government, professional and volunteer fire departments, private commerce, an environmental organization, industry, and labor.
<i>Chair</i>	Director, Maine Emergency Management Agency, Department of Defense and Veterans' Services
<i>Commission Address</i>	Maine Emergency Management Agency Department of Defense and Veterans' Services 72 State House Station Augusta, Maine 04333-0072 (207) 626-4503 1-800-452-8735 (Maine only) www.state.me.us/mema/serc/serc.htm
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Maine Emergency Management Agency (MEMA) ■ Right-to-know: MEMA ■ Recipient of Section 313 data: MEMA
<i>State Costs and Approaches to Funding</i>	The Maine Legislature passed "An Act to Implement, Administer, and Enforce the United States Emergency Planning and Community Right-to-Know Act of 1986" in June 1989. It allows fees to be set for registration of all facilities required to report under SARA Title III, reported weights of average daily inventories, and toxic releases reported for Section 313 compliance. Monies received are to be used for staff in MEMA, LEPC operating costs, and training programs and training grants.
<i>Related State Laws</i>	<ul style="list-style-type: none"> ■ Chemical Substance Identification Law (1984) ■ An Act to Implement, Administer, and Enforce the United States Emergency Planning and Community Right-to-Know Act of 1986 (June 1989) ■ An Act to Clean the Environment by the Reduction of Toxics Use, Waste and Release (April 1990)

Enforcement Efforts

The state has the authority to enforce EPCRA through inspections, fines, and penalties.

*Potential Liability of
SERC and LEPC
Members*

The State Attorney General, in an advisory opinion, concluded that LEPC members are not liable while serving on the local emergency planning committee unless they are willfully negligent.

SERC Members

Director, Maine Emergency Management Agency, Department of Defense and Veterans' Services;

Director, Bureau of Oil and Hazardous Materials Control,
Department of Environmental Protection;

Director, Environmental Health Unit, Department of Human Services;

Director, Bureau of Maintenance and Operations, Department of Transportation;

Commander, Support Services, State Police;

Representative of municipal government;

Representative of the Fire Chiefs' Association;

Representative of a professional firefighters union;

Representative of organized labor;

Representative of volunteer firefighters;

Representative of industry;

Director, Emergency Medical Services;

Representative of an environmental group;

Director, Bureau of Labor, Department of Labor;

American Red Cross (nonvoting); and

LEPC chairman (nonvoting).

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Maryland

Commission Name

Governor's Emergency Management Advisory Council/Maryland State Emergency Response Commission

Legal Basis

Executive Order No. 01. 01. 1987. 11
Established April 14, 1987

Commission Format

Governor's Emergency Management Advisory Council/Maryland State Emergency Response Commission

Chair

Director, Maryland Emergency Management Agency

Commission Address

Governor's Emergency Management Advisory Council/State
Emergency Response Commission
5401 Rue Saint Lô Drive
Reisterstown, Maryland 21136

Maryland Department of the Environment
Attn: TARSA
2500 Broening Highway
Baltimore, Maryland 21224

Agency Roles

- Emergency planning and training: Maryland Emergency Management Agency
- Right-to-know: Toxic Information Center, Department of the Environment
- Recipient of Section 312 and 313 data: Department of the Environment

Local Emergency Planning Districts and Committees

- Twenty-five LEPCs are established.
- Maryland's twenty-three counties and the cities of Baltimore and Ocean City serve as local emergency planning districts.

Related State Laws

- Access to Information About Hazardous and Toxic Substances Act, 1984
- Emergency Planning Law (HB 1466), 1986

Enforcement Efforts

The state is enforcing its state worker and community right-to-know program (state reporting requirements separate from federal EPCRA program).

Potential Liability of SERC and LEPC Members

SERC and LEPC members are covered from liability in the same manner as other government employees and volunteers.

Related Information

The Emergency Management Advisory Council was established in 1981 under Article 16A, Section 5 of the Annotated Code of Maryland.

SERC Members

Representatives from the following agencies and organizations:

- Department of Budget and Management;
- Department of Public Safety and Correctional Services;
- Department of Business and Economic Development;
- Department of the Environment;
- Department of General Services;
- Department of Health and Mental Hygiene;
- Department of Housing and Community Development;
- Department of the Military, National Guard;
- Department of Labor, Licensing, and Regulation;
- Department of Agriculture;
- Department of Transportation;
- Department of Natural Resources;
- Maryland Emergency Management Agency;
- Maryland Institute for Emergency Medical Services Systems;
- Maryland State Police;
- Office of the Fire Marshal;
- Maryland Emergency Management and Civil Defense Association;

Maryland Fire and Rescue Institute;
 Maryland Fire, Rescue, Education, and Training Commission;
 Office of the State Treasurer;
 Office of the Governor;
 Office of the Comptroller;
 U.S. Public Health Service;
 Maryland Municipal League;
 Fire departments;
 Maryland Association of Counties;
 State Firemen's Association;
 Private utilities;
 Industry;
 American Red Cross;
 Chemical Industry Council of Maryland; and
 Local government.

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Massachusetts

<i>Commission Name</i>	Massachusetts Emergency Response Commission
<i>Legal Basis</i>	Established May 27, 1987
<i>Chair</i>	Director of State Emergency Management Agency
<i>Commission Address</i>	Massachusetts Emergency Response Commission 400 Worcester Road P.O. Box 1496 Framingham, Massachusetts 01701-0317 (general information) (508)820-2000 www.magnet.state.ma.us/mema/sercpag.htm
<i>Designated Agencies</i>	Massachusetts Emergency Management Agency 400 Worcester Road, P.O. Box 1496 Framingham, Massachusetts 01701 (emergency notification, planning, and training and right-to-know) (508) 820-2000 Massachusetts Department of Environmental Protection SARA Title III One Winter Street, 10th Floor Boston, Massachusetts 02108 emergency notification and toxic release inventory (617) 292-5500
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: SERC, care of the Massachusetts Emergency Management Agency ■ Recipient of Section 313 data: Department of Environmental Protection

*State Costs and
Approaches to Funding*

- Training and right-to-know: Massachusetts Emergency Management Agency
- The total cost of emergency planning and community right-to-know programs was estimated to be \$1.2 million to \$1.5 million in 1999. All costs are borne by SERC member agency budgets.
- The cost of Title III implementation at the state level is projected to be between \$700,000 and \$1 million for right-to-know requirements alone.

*Local Emergency
Planning Districts and
Committees*

- There are 50 certified LEPCs in Massachusetts. The certification process was designed to ensure all LEPCs are meeting the goals and missions of SARA Title III. The process involves submitting a completed application and the accompanying documentation related to the level of certification they are applying for.

- Three Emergency Management Regions serve as local emergency planning districts.

Related State Laws

- Hazardous Substances Disclosure Act, 1983
- Toxics Use Reduction Act, 1989

Enforcement Efforts

The state is enforcing its Hazardous Substances Disclosure Act.

*Potential Liability of
SERC and LEPC
Members*

In an advisory opinion, the Department of the Attorney General expressed its opinion that public employees (including SERC and LEPC members) are immune from liability for injury, loss of property, personal injury, or death caused by a negligent or wrongful act or omission committed while acting within the scope of their office or employment. An employee acting within the scope of official duties or employment may be indemnified by the public employer against the expenses, not to exceed \$1 million, arising out of an action against the employee.

Related Information

The Massachusetts Department of Public Health (DPH) maintains a file on the research laboratories, hospitals, and other medical facilities claiming Title III exemption for Section 311 and 312 reporting.

SERC Members

- Massachusetts Fire Chiefs' Association;
- Massachusetts Department of Environmental Protection;
- Massachusetts Department of Public Health;
- Massachusetts Emergency Management Agency;
- Massachusetts Highway Department;
- * Member of environmental organization;
- * Member of trucking association;
- Massachusetts Chiefs of Police Association;
- Massachusetts Department of Fire Services;
- * Member of Public;
- Massachusetts Association of Hazmat Technicians;
- * Three members of LEPCs;

Massachusetts State Police;
 Associated Industries of Massachusetts;
 Massachusetts Chemical Technology Alliance;
 Massachusetts Turnpike Authority;
 Massachusetts Bay Transportation Authority;
 Massachusetts Municipal Association;
 U.S. Environmental Protection Agency Region 1;
 Massachusetts Attorney General's Office;
 Professional Firefighters of Massachusetts;
 Massachusetts Office of Emergency Medical Services;
 Massachusetts Call Volunteer Firefighters Association; and
 Massachusetts Criminal Justice Training Council.

* These members are appointed by the SERC chairperson.

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Michigan

<i>Commission Name</i>	Michigan Emergency Planning and Community Right-to-Know Commission
<i>Legal Basis</i>	Executive Order Established April 16, 1987
<i>Commission Format</i>	Five state agencies, two representatives from local government, one labor official, one representative from the academic community, one representative from the general public, and three representatives from emergency management.
<i>Chair</i>	Director, Department of State Police
<i>Commission Address</i>	Michigan Emergency Planning and Community Right-to-Know Commission Michigan Department of State Police Emergency Management Division 4000 Collins Road Lansing, Michigan 48913 www.deq.state.mi.us/ead/sara/serc.html
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Michigan State Police ■ Right-to-know: Department of Environmental Quality ■ Recipient of Section 311-313 data: Department of Environmental Quality
<i>State Costs and Approaches to Funding</i>	In fiscal 1999, Michigan State Police/Emergency Management Division spent \$326,897 in general funds for emergency planning, and the Department of Environmental Quality spent \$51,000 on right-to-know activities.

*Local Emergency
Planning Districts and
Committees*

- Each LEPC jurisdiction is covered by a local emergency program that develops emergency operation plans or emergency operation guidelines. These documents cover all hazards, including hazmat incidents, and are updated annually.
- LEPCs are also responsible for developing site-specific community response plans for each of the 3,054 SARA Title III sites in the state. Twenty-two LEPCs submitted plans in 1999. Sixty-seven of Michigan's ninety LEPCs have submitted site-specific community plans since LEPCs were established.
- The eighty-three counties and seven municipalities serve as local emergency planning districts.

Related State Laws

- Fire Prevention Code, 1986
- Safety Data Sheet Disclosure Law, 1980

Enforcement Efforts

The state is enforcing its Fire Prevention Code and Safety Data Sheet Disclosure Law.

*Potential Liability of
SERC and LEPC
Members*

The Michigan Department of the Attorney General has not yet expressed an opinion on the issue of SERC and LEPC members' potential tort liability.

SERC Members

Director, Department of Environmental Quality;
Director, Department of Consumer & Industry Services;
Director, Department of Community Health;
Director, Michigan State Police;
Director, Department of Agriculture; and
Representatives from the following organizations:
Local emergency management;
Local government;
Labor;
Academic program on health and safety; and
General public.

Minnesota

Commission Name

Minnesota Emergency Response Commission

Legal Basis

Minnesota Statutes, Section 299K

Commission Format

The commission has twenty-two members, including commissioners of public safety, health, and agriculture departments, the Pollution Control Agency, and others appointed by the Governor. The commission has five standing committees—reporting and public requests, education and training, legislative, emergency planning, and executive.

Chair

Elected annually from the commission membership

Commission Address

Minnesota Emergency Response Commission
444 Cedar Street, Suite 223
St. Paul, Minnesota 55101-6223
(651) 297-7372
www.erc.state.mn.us

Agency Roles

- Emergency planning: Department of Public Safety
- Right-to-know: Department of Public Safety
- Recipient of Section 313 data: Department of Public Safety

*State Costs and
Approaches to Funding*

- The budget for the commission is \$430,000 in fiscal 1999. This budget provides for computerization of the data submitted by regulated facilities and development of a statewide network to make the information more readily available to emergency planners, response personnel, the public, and other state agencies; for administrative funds for local emergency planning committees, including reimbursement of member expenses; and for improving toxic chemical release reporting.

- Fees are assessed on hazardous chemical inventory reports for recovery of data management costs and on toxic chemicals release reports for various pollution prevention programs.

*Local Emergency
Planning Districts and
Committees*

- The state law establishes seven regional review committees as LEPCs and allows any political subdivision or adjacent subdivisions to form LEPCs or planning advisory committees.
- Minnesota Statutes, Section 299K, states that every political subdivision should prepare an emergency plan that addresses Title III.
- All plans are reviewed and coordinated by the regional review committees. Committees have reviewed all of the county plans in addition to a number of city plans.

Related State Laws

- Minnesota Hazardous Waste Materials Incident Response Act, 1992
- Minnesota Toxic Pollution Prevention Act, 1990
- Minnesota Emergency Planning and Community Right-to-Know Act, 1989
- The Community Emergency Response Hazardous Substances Protection Act, 1986 (Firefighters Right-to-Know)
- Employee Right-to-Know Act, 1983

Enforcement Efforts

- The SERC has the authority under state law to enforce the federal law. It may delegate its authority to other state and local agencies.
- The SERC has adopted a compliance and enforcement strategy that consists of informational letters, compliance orders, stipulation agreements, civil penalties, and criminal penalties.
- The SERC has prepared an enforcement handbook for training personnel in other agencies.

*Potential Liability of
SERC and LEPC
Members*

Minnesota statutes provide for the defense of SERC or LEPC members unless they engage in conduct wholly outside the scope of their duties. In many cases members would be immune from suit. SERC or LEPC members acting within the scope of their duties would be indemnified by their state or local government for any judgments, fines, amounts paid in settlement, attorney's fees, or litigation expenses entered against them.

Related Information

- The Department of Public Safety supplies staffing and services for the commission.
- The state law expands the reporting requirements under Section 311 and 312 to public sector facilities. Section 313 reporting for selected nonmanufacturing sectors was expanded in 1994.
- State law requires the deposit of local emergency plans in designated county libraries.
- The 1992 Minnesota Hazardous Materials Incident Response Act authorizes the establishment of a statewide system of regional hazardous materials response teams and chemical assessment teams.

SERC Members

The current twenty-two-member SERC consists of the following:

Commissioner, Department of Public Safety;
Commissioner, Department of Health;
Commissioner, Department of Agriculture;
Commissioner, Pollution Control Agency;
Representatives of emergency response organizations;
Health professionals;
Community group representatives;
Labor representatives;
Waste treatment operators;
Emergency management official;
Elected officials; and
Representatives from business and industry.

Mississippi

<i>Commission Name</i>	Mississippi Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 798 Reorganized May 21, 1999
<i>Commission Format</i>	Two state agencies: Mississippi Emergency Management Agency, Mississippi Department of Environmental Quality
<i>Chair</i>	Director, Mississippi Emergency Management Agency

<i>Commission Address</i>	Mississippi Emergency Response Commission 1410 Riverside Drive P.O. Box 4501, Fondren Station Jackson, Mississippi 39296-4501 (601) 352-9100 (601) 352-8314 (fax)
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Mississippi Emergency Management Agency ■ Right-to-know: Mississippi Emergency Management Agency ■ Recipient of Section 313 data: Mississippi Department of Environmental Quality
<i>State Costs and Approaches to Funding</i>	The SERC spent \$64,940 in general funds for emergency planning and right-to-know activities in fiscal 1999.
<i>Local Emergency Planning Districts and Committees</i>	All of the eighty-two county LEPCs submitted plans to the SERC for review and approval on a rotational basis.
<i>Potential Liability of SERC and LEPC Members</i>	<ul style="list-style-type: none"> ■ Section 33-15-21 MS Code provides immunity for state and local personnel engaged in emergency management activities. ■ The Volunteer Immunity Act of 1988 (Section 95-9-1 MS Code) provides immunity to qualified volunteers.
<i>SERC Members</i>	Representatives of the Mississippi Emergency Management Agency; and Representatives of the Mississippi Department of Environmental Quality

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Missouri

<i>Commission Name</i>	Missouri Emergency Response Commission (MERC)
<i>Legal Basis</i>	Section 292.602, Revised Statutes of Missouri (RSMo), August 1992
<i>Commission Format</i>	Six representatives are appointed by the Governor. Four members of the General Assembly are appointed by the legislative leadership. The directors of the Departments of Natural Resources, Economic Development, Health, and Public Safety, or their designees, complete the fourteen-member commission.
<i>Chair</i>	Commission officers are elected annually by the commission members.
<i>Commission Address</i>	(EPCRA Reports [except Section 313 Form Rs]) Missouri Emergency Response Commission P.O. Box 3133 2302 Militia Drive Jefferson City, Missouri 65101 (314) 526-3349 www.sema.state.mo.us/semepage.htm

	<p>Street Address: 2302 Militia Drive Jefferson City, Missouri 65109</p> <p>(Section 313 Form Rs) Missouri Department of Natural Resources Division of Environmental Quality P.O. Box 176 205 Jefferson Street Jefferson City, Missouri 65102</p>
<i>Section 304 Emergency Notification</i>	(573) 634-2436 (twenty-four hours) Department of Natural Resources.
<i>Agency Roles</i>	The Department of Public Safety has been assigned responsibility for administering the state law and all provisions of the federal EPCRA legislation except Section 313. Assistance in implementing the program is provided by the Departments of Health, Economic Development, and Natural Resources.
<i>State Costs and Approaches to Funding</i>	As of May 2000, approximately \$688,997 was collected from Tier II reporting fees and from pipelines. Sixty-five percent of these funds were provided to LEPCs, 35 percent to the Department of Public Safety.
<i>Local Emergency Planning Districts and Committees</i>	Missouri has 114 county LEPCs and one City of St. Louis LEPC. Some LEPCs have received voluntary contributions from facilities within their jurisdiction to support their activities.
<i>Related State Laws</i>	<ul style="list-style-type: none"> ■ Emergency Planning and Community Right-to-Know Act of 1992 (Sections 292.600 - 292.625 RSMo) ■ Hazardous Substance Emergencies (Sections 260.500 - 260.550 RSMo)
<i>Enforcement Efforts</i>	The commission has adopted an enforcement policy that emphasizes activities to encourage voluntary compliance. Failure to comply may result in enforcement of Missouri's law or referral to U.S. EPA for violations of the federal act.
<i>Potential Liability of SERC and LEPC Members</i>	Section 292.623 RSMo provides liability protection for MERC and LEPC members when acting in their capacities pursuant to state or federal law. This protection does not apply to cases of intentional wrongdoing or gross negligence.
<i>Related Information</i>	MERC was codified under state law in 1989, 1992, and 1993 (292.602 RSMo). In addition, state law was amended to provide liability protection for LEPC and MERC members, special reporting requirements for explosives, and a system for marking the location of hazardous chemicals. Fees and inspection authority were added in 1992.
<i>SERC Members</i>	<p>Director, Department of Economic Development, or designee;</p> <p>Director, Department of Natural Resources, or designee;</p> <p>Director, Department of Health, or designee; and</p> <p>Director, Department of Public Safety, or designee.</p>

The Governor appoints a representative from each the following:

Hazardous materials transportation;

Missouri industry;

Chief fire officer;

Law enforcement officer;

Local government; and

General public.

The legislative leadership appoints four members:

Two state representatives appointed by the Speaker of the House;
and

Two state senators appointed by the President Pro Tempore of the
Senate.

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Montana

<i>Commission Name</i>	Montana Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 10-93 Established July 21, 1993
<i>Commission Format</i>	Expansion of members of the existing Montana Hazardous Materials Emergency Response Plan
<i>Chairs</i>	Administrative Officer, Department of Environmental Quality, and Administrator, Division of Disaster and Emergency Services
<i>Commission Address</i>	Department of Environmental Quality 1520 East Sixth Avenue P.O. Box 200901 Helena, Montana 59620-0901 (406) 444-5263
<i>Agency Roles</i>	■ Emergency planning: Division of Disaster and Emergency Services ■ Right-to-know: Department of Environmental Quality ■ Recipient of Section 313 data: Department of Environmental Quality
<i>State Costs and Approaches to Funding</i>	Federal agency planning and training grants.
<i>Local Emergency Planning Districts and Committees</i>	The SERC designated the fifty-six counties as local emergency planning districts.
<i>Related State Laws</i>	Employee and Community Hazardous Chemical Information Act, 1985
<i>Enforcement Efforts</i>	Local governments are empowered to enforce the Employee and Community Hazardous Chemical Information Act.

*Potential Liability of
SERC and LEPC
Members*

SERC and LEPC members who act within the scope and course of their office will be defended and indemnified by the state of Montana. However, the state will not defend or indemnify an employee whose conduct constituted oppression, fraud, malice, or a criminal offense.

SERC Members

Representatives of the following agencies:

Governor's office;

Division of Disaster and Emergency Services, Department of Military Affairs;

State Department of Transportation;

State Highway Patrol, Department of Justice;

Fish, Wildlife, and Parks Department;

State Fire Marshal's Office, Department of Justice;

Burlington Northern;

Montana Power Company;

Chairman, Lewis and Clark County LEPC;

Director, Montana Fire Training School;

U.S. Air Force, Malmstrom Air Force Base;

Montana Motor Carriers Association; and

Billings fire department.

Nebraska

Commission Name

State Emergency Response Commission

Legal Basis

Nebraska Emergency Planning and Community Right-to-Know Act, Sections 81-15, 191 to 81-15, 235.

Commission Format

Directors of six state agencies, two elected officials or employees of municipal or county government, and one citizen member to represent each of the following interest groups: firefighters, local emergency management, public or community health, environmental protection, labor, school district, small business, agricultural business, chemical industry, highway and rail transportation.

Chair

Elected annually by the membership from its citizen members.

Commission Address

State Emergency Response Commission
Nebraska Emergency Management Agency
1300 Military Road
Lincoln, Nebraska 68508-1051
www.nebema.org/serc.html

Agency Roles

- Emergency planning: State Emergency Management Agency, in conjunction with LEPCs
- First responder training: State Emergency Management Agency, State Fire Marshal Training Divisions
- Right-to-know: Department of Environmental Quality

*State Costs and
Approaches to Funding*

- Recipient of Sections 311, 312, and 313 data: Department of Environmental Quality
- Emergency release notification: Department of Environmental Quality
- The Department of Environmental Quality receives \$85,000 annually from general funds for data management.
- The Legislature is currently considering the establishment of a fee system attached to Tier II submission.

*Local Emergency
Planning Districts and
Committees*

The County is designated as the local planning district. Approximately half of Nebraska's 93 counties have a functioning LEPC. Plans are developed as part of the county all-hazards local emergency operating plan (LEOP).

SERC Members

Director, Nebraska Emergency Management Agency;
Director, Department of Roads;
Director, Health, Human Services Regulation and Licensure;
Director, Law Enforcement and Public Safety;
Director, Department of Environmental Quality;
State fire marshal; and
Citizen representatives from local government, firefighters, local emergency management, community health, environmental protection, school districts, small business, agricultural business, chemical industry, highway and rail transportation.

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Nevada

<i>Commission Name</i>	Nevada State Emergency Response Commission
<i>Legal Basis</i>	State law (NRS-459)
<i>Commission Format</i>	The twenty-member commission consists of representatives from three state agencies, one county health official, seven local emergency responders, five representatives from private industry, one mining industry representative, one gaming industry representative, one local government official, and one state elected official.
<i>Chairs</i>	Local: Chair, Clark County LEPC
<i>Commission Address</i>	Nevada State Emergency Response Commission Department of Motor Vehicles and Public Safety 555 Wright Way Carson City, Nevada 89711-0900 (775) 687-6973 www.state.nv.us/dmv_ps/serc.htm
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Division of Emergency Management ■ Recipient of Section 313 data: Division of Environmental Protection ■ Recipient of Section 312 data: fire marshal's office

*State Costs and
Approaches to Funding*

■ Nevada Revised Statutes 459 establishes a hazardous materials contingency fund that is used to support Title III activities. The state emergency response commission, responsible for administering the contingency fund, will receive funding for operational costs. The contingency fund went into effect in January 1989.

■ In addition, a new state reporting fee law is generating approximately \$200,000 annually, which is used to support LEPC activities.

*Local Emergency
Planning Districts and
Committees*

All of the seventeen-county LEPCs submitted local emergency plans to the SERC. The plans are continually tested and updated.

Related State Laws

Nevada Revised Statutes, Chapter 459 (pertaining to hazardous materials)

Enforcement Efforts

The state is enforcing its own hazardous materials transportation regulations.

*Potential Liability of
SERC and LEPC
Members*

Under Nevada law, defense and indemnification may be provided to members for actions relating to their public duty or employment, unless the conduct in question was wanton or malicious. Members must submit a timely request for defense and cooperate, in good faith, in the defense. Nevada law may provide members with immunity from liability under certain factual situations relating to emergency response functions.

Related Information

The State Emergency Response Commission Office is located organizationally within the Department of Public Safety. The office provides administrative support and other services. The SERC coordinates commission projects, provides and coordinates LEPC support, facilitates grants administration, and provides liaison with public agencies and the state legislature.

SERC Members

Government Relations Director, Southern Pacific Transportation Company;

Director, Department of Motor Vehicles and Public Safety;

Administrator, Department of Environmental Protection;

State fire marshal/training officer;

Senior Industrial Hygienist, Nevada Occupational Safety and Health Enforcement Section;

Special Services Director, Clark County Manager's Office;

Representative, rural county;

Chair, Elko County LEPC;

Health Officer, Clark County Health Department;

Fire Marshal, City of Reno Fire Department;

Deputy Chief, Clark County Fire Department;

Environmental Specialist, Kerr-McGee Chemical Corporation;

Emergency Coordinator, Clark County;

Environmental Manager, TIMET;
 Emergency Coordinator, City of Las Vegas;
 State senator;
 Representative, law enforcement;
 Representative, Nevada Mining Association;
 Representative, Nevada Gaming Industry; and
 Representative, hazardous materials contractor.

New Hampshire

<i>Commission Name</i>	New Hampshire Emergency Response Commission
<i>Legal Basis</i>	Executive Order
<i>Commission Format</i>	Expansion of the Governor's Task Force for Acutely Toxic Chemical Emergency Preparedness. Additional members include representatives from industry, associations, labor, emergency medical services, media, state senate and house, local government, fire service, law enforcement, and environmental interest groups.
<i>Chair</i>	Director, Governor's Office of Emergency Management
<i>Commission Address</i>	New Hampshire Emergency Response Commission c/o Governor's Office of Emergency Management State Office Park South 107 Pleasant Street Concord, New Hampshire 03301 (603) 271-2231
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Governor's Office of Emergency Management (lead agency) ■ Right-to-know: Governor's Office of Emergency Management ■ Recipient of Section 313 data: Governor's Office of Emergency Management
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none"> ■ The Governor's Office of Emergency Management used existing general funds and staff for emergency planning efforts and right-to-know activities. There is no dedicated funding source for program implementation. ■ Implementation of Title III is estimated to cost the state approximately \$250,000 annually.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ Each of the 230 municipalities was designated as a planning district. In addition, every municipality has formed a local emergency planning committee. The municipal LEPCs are building upon existing emergency management procedures. ■ As of March 2000, the SERC has received seventy emergency plans.
<i>Related State Laws</i>	Worker Right-to-Know Law, 1983

Related Information

- The Governor's Task Force for Acutely Toxic Chemical Emergency Preparedness was established in 1985 and was expanded and designated as the SERC in 1987.
- The commission has developed the following programs and is undertaking activities in the following emergency response and planning areas:
 - A Hazardous Materials Incident Response Plan and Standard Operating Procedure (SOP);
 - A resource identification program;
 - A community hazard identification program;
 - A state response team and unit;
 - Programs for local awareness, training, and planning;
 - Interagency drills and exercises;
 - Hazardous materials regional workshops;
 - Plans review;
 - Grant assistance; and
 - Legislative issues.

SERC Members

Representatives on the existing task force from the following agencies and organizations:

- Governor's Office of Emergency Management;
- Department of Safety;
- State fire marshal;
- Office of the Governor;
- Office of the Attorney General;
- Department of Transportation;
- Department of Environmental Services;
- Department of Agriculture;
- Business and Industry Association;
- Public Utilities Commission;
- Police Chiefs' Association;
- Fire Chiefs' Association;
- Fire Standards and Training;
- Chemical industry;
- Trucking Association;
- Legislative Association;
- Labor;
- Emergency Medical Services;
- White Mountain National Forest; and
- News media.

New Jersey

<i>Commission Name</i>	New Jersey State Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 161 Established February 13, 1987
<i>Commission Format</i>	The commission is based on the Governor's Advisory Council for Emergency Services, established under the Emergency Services Act of 1972.
<i>Chairs</i>	Superintendent, New Jersey State Police; Director, State Office of Emergency Management; and Commissioner, New Jersey Department of Environmental Protection
<i>Commission Address</i>	New Jersey State Police Office of Emergency Management Division Headquarters Box 7068 River Road Ewing, New Jersey 08628-0068 (609) 538-6064 (Emergency planning) New Jersey Department of Environmental Protection Bureau of Chemical Release Information and Prevention SARA Title III Program CN 405 Trenton, New Jersey 08625-0405 (609) 292-6714 (Right-to-know)
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Office of Emergency Management, State Police ■ Right-to-know: Bureau of Chemical Release Information and Prevention, Department of Environmental Protection ■ Recipient of Section 313 data: Bureau of Chemical Release Information and Prevention, Department of Environmental Protection
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none"> ■ State general funds are used for emergency planning. Right-to-know activities are entirely supported by the New Jersey Worker and Community Right-to-Know Act. ■ Under existing state law, regulated facilities are assessed a fee of \$2 per employee, with a minimum of \$50 per employer.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ 577 of the 587 county and municipal LEPCs have SERC-approved plans, and 10 additional LEPCs have plans under development. ■ The New Jersey Emergency Management Act requires every municipality and county in the state to establish an emergency management council and to develop an emergency operations plan. Executive Order 161 designates all 567 municipalities and 21 counties as LEPCs.
<i>Related State Laws</i>	<ul style="list-style-type: none"> ■ Spill Compensation and Control Act (1989) ■ Toxic Catastrophe Prevention Act (1986)

Enforcement Efforts

- Public Employees Occupational Safety and Health Act (1984)
- Worker and Community Right-to-Know Act (1983)
- The state is enforcing its own worker and community right-to-know law.
- The Department of Environmental Protection (DEP) requires all potential Section 313 facilities to complete and return a state form indicating whether or not they were subject to toxic release inventory provisions. The thresholds for completion of the state form are more stringent than those under section 313 of the federal EPCRA.
- All counties in the state have a community right-to-know contact person who handles requests for information and provides technical assistance to employers in understanding the requirements for compliance.
- DEP is promoting Section 312 compliance through its communication/outreach program. Speaking engagements are regularly scheduled with regulated businesses, trade associations and community service organizations, promoting an understanding of the program, its value, and goals.
- 824 inspections of facilities were conducted during calendar 1998 to verify survey accuracy, lend technical assistance in completing the survey, and maintain a field presence in the regulated community.
- The Department of Health and Senior Services' Public Employees Occupational Safety and Health (PEOSH) Program, in cooperation with the State Police Office of Emergency Management, has developed a method of enforcing planning and training requirements through authorities granted under the New Jersey PEOSH Act, which mirrors OSHA 1910.120. Together, these two agencies work to seek compliance from all 588 LEPCs in the state.
- DEP uses a combined survey that satisfies the reporting requirements of SARA, Section 312, and New Jersey's Community Right-to-Know Act. The DEP's active enforcement of its own law, through the issuance of civil administrative penalties and administrative orders, will also generate compliance with federal law.

Potential Liability of SERC and LEPC Members

- Existing law provides immunity from liability to individuals or entities for acts or omissions in anticipation of, in preparation for, or in the course of rendering care, assistance, or advice on imminent, potential, or actual hazardous discharge.
- New Jersey Public Law 1989, Chapter 351, provides immunity from civil suits for members of local emergency planning committees.

Related Information

- The New Jersey Office of Emergency Management (NJOEM) has made significant progress in addressing its hazardous materials emergency responder training mandates, identified under OSHA Law 1910.120.

- NJOEM has established a cooperative agreement with the HMACs of the state to provide assistance with planning and training.
- NJOEM has also released a revised set of guidelines for the preparation of the LEPC Emergency Operations Plans (EOPs). The office has distributed to LEPCs "standardized text," which is generic language applicable to most of the plan. LEPCs need only modify the text where their local operations differ from that in the EOP guidance.
- Summaries of various data collected via the federal Toxic Release Inventory (TRI) are included in a Right-to-Know Annual Report. Information from the TRI is used to support several air programs in DEP, including permit review, air quality management, the emissions inventory, and rule development. Research conducted by the Office of Pollution Prevention and the Division of Science and Research is also supported.
- The New Jersey Department of Health and Senior Services enforces right-to-know labeling, under the state's Worker and Community Right-to-Know Act, which benefits emergency responders and public employees.
- The commission is based on the existing Governor's Advisory Council for Emergency Services, established under the Emergency Services Act of 1972. The council members, along with the director of the Office of Emergency Management and the commissioner of the Department of Health and Senior Services, form the commission.

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SERC Members

Superintendent, New Jersey State Police;
 Commissioner, Department of Environmental Protection;
 Commissioner, Department of Health and Senior Services;
 Attorney General;
 Adjutant General, Department of Military and Veteran Affairs;
 Commissioner, Department of Community Affairs;
 Commissioner, Department of Transportation; and
 President, Board of Public Utilities.

New Mexico

<i>Commission Name</i>	New Mexico State Emergency Response Commission
<i>Legal Basis</i>	Hazardous Chemical Information Act, Section 74-4E-1989 Emergency Management Act, Section 74-4B-1989
<i>Commission Format</i>	Seven members appointed by the Governor, at least three from the public sector.
<i>Chair</i>	Appointed by the Governor

<i>Commission Address</i>	Department of Public Safety Chemical Safety Office P.O. Box 1628 Santa Fe, New Mexico 87504-1628 (505) 476-9600
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Technological Hazards Bureau, Department of Public Safety ■ Right-to-know: Department of Public Safety ■ Recipient of Section 313 data: Technological Hazards Bureau, Department of Public Safety
<i>State Costs and Approaches to Funding</i>	New Mexico's Hazardous Materials Information Act calls for a \$25 fee for the submission of Section 312 Tier II chemical inventory reports, with a maximum of \$250 per facility.
<i>Local Emergency Planning Districts and Committees</i>	LEPC plans are updated annually.
<i>Related State Laws</i>	<ul style="list-style-type: none"> ■ Hazardous Materials Information Act, 1989 ■ New Mexico Emergency Management Act
<i>Potential Liability of SERC and LEPC Members</i>	State law 74-4E-4F (NMSA 1978) provides immunity from tort liability for emergency response actions, including planning provisions.
<i>SERC Members</i>	<p>Director, Technical Emergency and Support Division;</p> <p>Executive Director, New Mexico Motor Carriers' Association;</p> <p>Chief, Primary Care and Emergency Medical Services Bureau, Department of Health;</p> <p>Director, Poison Control Center, University of New Mexico;</p> <p>Emergency planner, Intel plant; and</p> <p>Representative, state fire marshal's office.</p>

New York

<i>Commission Name</i>	New York State Emergency Response Commission
<i>Legal Basis</i>	Executive Order 95 Established April 17, 1987
<i>Commission Format</i>	The Disaster Preparedness Commission serves as the SERC. It consists of representatives from twenty-two state agencies and three additional members appointed by the Governor, two of whom shall be chief executives.
<i>Chair</i>	Chairman, Disaster Preparedness Commission, appointed by the Governor

Commission Address

New York State Emergency Response Commission
Building #22, Suite 101
1220 Washington Avenue
Albany, New York 12226-5000
(518) 457-2222
www.nysemo.state.ny.us/serc/serc.html

Agency Roles

- Emergency planning: State Emergency Management Office
- Right-to-know: Department of Environmental Conservation
- Recipient of Section 313 data: Department of Environmental Conservation

*State Costs and
Approaches to Funding*

- No state funds have been allocated to the Title III program. Legislation that would provide program funds has been passed by the state assembly but not by the state senate. It is estimated that several hundred thousand dollars in state resources are used to support the program annually.
- The state participates in the FEMA Section 305 Training Grant Program and DOT's HMTA Planning and Training Grants Program.
- A few LEPCs have benefited from financial settlements resulting from citizen suits and enforcement of related state laws.

*Local Emergency
Planning Districts and
Committees*

- The fifty-seven counties and New York City were designated as local emergency planning districts, for a total of fifty-eight.
- All of the fifty-eight LEPCs submitted local emergency plans to the SERC every two years.

Related State Laws

- Worker Right-to-Know Act, 1980
- Environmental Conservation Law: Chemical Bulk Storage, Parts 595-597 Petroleum Bulk Storage, Parts 612-614
- General Municipal Law, Sect. 209-U, Notification of Presence of Hazardous Materials
- Executive Law, Art. 2-B, State and Local Natural and Man-Made Disaster Preparedness Act

*Potential Liability of
SERC and LEPC
Members*

In 1989 a formal opinion was issued by the state attorney general stating that LEPC members are state employees for purposes of defense and indemnification under New York state law.

Related Information

- The commission publishes a quarterly information bulletin, *The SERC Reporter*.
- The state's Annual Disaster Preparedness Conference features a special track for LEPC representatives.
- The state emergency management office and the office of fire prevention and control jointly developed an "Incident Command System" course for local officials involved in hazardous materials response.

- A computer lab offering hands-on training with Computer-Aided Management of Emergency Operations (CAMEO) software has been established at the state fire academy.
- A SERC working group was formed in 1987 with representatives of six state agencies, a local government representative, and two representatives from business and industry.
- The SERC has prepared guidance, computer software, and audio-visual aids on Title III to support LEPCs in their planning efforts.
- The Department of Environmental Conservation (DEC) has a twenty-four hour state spill hot line for Section 304 notification.
- DEC manages the database for Section 313 Toxic Release Inventory.
- Section 305 training is administered by the state emergency management office, which is the administrative arm of the commission. The Office of Fire Prevention and Control also is closely involved in Title III training activities.
- New York City has its own community right-to-know law.

SERC Members

The head or designated representative of the following agencies:

Department of Health;
 Department of Environmental Conservation;
 State Energy Office;
 Division of Criminal Justice Services;
 Department of Education;
 Department of Social Services;
 Department of Economic Development;
 Department of Agriculture and Markets;
 Department of Housing and Community Renewal;
 Office of General Services;
 Department of Transportation;
 Department of Labor;
 State Police;
 Department of State;
 Office of Fire Prevention and Control;
 Public Service Commission;
 Division of Military and Naval Affairs;
 Thruway Authority;
 Banking Department;
 Insurance Department;
 American Red Cross; and
 Three additional members appointed by the Governor, including two chief executives.

North Carolina

<i>Commission Name</i>	North Carolina Emergency Response Commission
<i>Legal Basis</i>	Executive Order 17, signed June 1993
<i>Commission Format</i>	Consists of at least nineteen members, including representatives from state agencies, local government, and private industry.
<i>Chair</i>	Director, Division of Emergency Management
<i>Commission Address</i>	North Carolina Emergency Response Commission 116 West Jones Street Raleigh, North Carolina 27603-1335 (919) 733-3867 (800) 451-1403 (N.C. only) www.dem.dcc.state.nc.us
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Division of Emergency Management, Department of Crime Control and Public Safety■ Right-to-know: Department of Labor, Division of Occupational Safety and Health (800-LABOR-NC)■ Recipient of Section 313 data: Division of Emergency Management, Department of Crime Control and Public Safety■ SARA records available from: Division of Emergency Management, SARA Coordinator
<i>State Costs and Approaches to Funding</i>	In 1998, awarded \$45,710 to Local Emergency Planning Committees for ongoing implementation and special projects.
<i>Local Emergency Planning Districts and Committees</i>	100 Local Emergency Planning Districts formed from existing county boundaries, Indian tribes, and multi-county agreements.
<i>Related State Laws</i>	<ul style="list-style-type: none">■ Hazardous Chemical Right-to-Know Act, 1985■ North Carolina Hazard Communication Standard
<i>Enforcement Efforts</i>	The Department of Labor enforces the state's Hazardous Chemicals Right-to-Know Act. EPCRA enforcement is conducted by EPA Region IV.
<i>Potential Liability of SERC and LEPC Members</i>	For the purposes of liability, SERC and LEPC members should be treated the same as other state employees and will be liable in suits arising out of their own negligence. If the alleged negligence resulted from the work of an individual as an agent of North Carolina, the state may provide attorneys to defend the employees and pay judgments or settlements up to the limit of the State Tort Claims Act, currently \$100,000.
<i>Related Information</i>	The Department of Crime Control and Public Safety, Division of Emergency Management, provides administrative and staff support to the commission as needed.
<i>SERC Members</i>	Director, Division of Emergency Management; Hazardous Materials Coordinator, State Highway Patrol;

Safety Director, Department of Agriculture;

Director, Emergency Planning, Division of Highways, Department of Transportation (DOT);

Chief, Transportation Inspection, Division of Motor Vehicles, DOT;

Manager, Training/Standards Program, Fire and Rescue Services Division, Department of Insurance;

Chief, Emergency Medical Services, Division of Facility Services, Department of Human Resources;

Six at-large members from local government and private industry with technical expertise in the emergency response field to be appointed by the Governor and serve for terms of two years;

Director, Division of Waste Management, Department of Environment and Natural Resources (DENR);

Director, Division of Water Quality, DENR;

Director, Division of Air Quality, DENR;

Director, Division of Radiation Protection, DENR;

Director, Division of Pollution Prevention and Environmental Assistance, DENR; and

Assistant Deputy Commissioner of Labor for Occupational Safety and Health.

North Dakota

<i>Commission Name</i>	North Dakota State Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 1987-3 Established April 14, 1987
<i>Commission Format</i>	Eleven state agencies
<i>Chair</i>	Director, Division of Emergency Management, State Emergency Operations Center
<i>Commission Address</i>	North Dakota Division of Emergency Management P.O. Box 5511 Bismarck, North Dakota 58506-5511 (701) 328-8100 (Reporting and right-to-know requests)
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning and training: Division of Emergency Management and Office of the State Fire Marshal ■ Recipient of Sections 302, 311-313 data: Division of Emergency Management
<i>State Costs and Approaches to Funding</i>	Approximately \$25,000 in general funds is spent on emergency planning, training, and data management for Title III implementation each year.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ All of the fifty-three county LEPCs submitted a local emergency plan to the SERC for review. The LEPCs will continue to develop and improve these plans to ensure adequate planning.

Related State Laws

- The Division of Emergency Management uses a computer program to manage all the reporting, facility contacts, and other information to assist state and local emergency planners.

Enforcement Efforts

- Hazardous Chemicals Preparedness and Response Law, NDCC 37-07.1-17.1, (1991)
- Toxic or Hazardous Substances Information Disclosure Act, 1985

The state is enforcing its own Toxic or Hazardous Substances Information Disclosure Act. The state will also enforce Title III reporting requirements.

*Potential Liability of
SERC and LEPC
Members*

SERC and LEPC members will not be held personally liable for acts or omissions occurring within the scope of their duties, unless the acts or omissions constitute reckless or grossly negligent conduct, or willful or wanton misconduct. SERC and LEPC members may be liable for punitive or exemplary damages, especially if the act in question was outside the scope of the member's duties or office.

SERC Members

Representatives of the following agencies:

- Office of the Governor;
- Division of Emergency Management;
- Department of Health and Consolidated Laboratories;
- State Department of Transportation;
- State Office of Management and Budget;
- State Highway Patrol;
- State Fire Marshal's Office;
- State Radio Communications;
- Office of the Attorney General;
- Department of Agriculture; and
- Department of Workers' Compensation.

Northern Marianas

Note: Updated information for Northern Marianas was not available at time of publication.

<i>Commission Name</i>	Northern Marianas State Emergency Response Commission
<i>Commission Format</i>	State agencies and citizens
<i>Chair</i>	Director, Saipan Disaster Control Office and Civil Defense Coordinator
<i>Commission Address</i>	Office of the Governor Capitol Hill Saipan, C.M. Northern Mariana Islands 96950
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Office of the Governor■ Right-to-know: Office of the Governor■ Recipient of Section 313 data: Office of the Governor

<i>Local Emergency Planning Districts and Committees</i>	The entire territory is designated as a local emergency planning district.
<i>SERC Members</i>	Emergency Operations Center; Commonwealth Health Center; Department of Public Works; Department of Fish and Wildlife; Coastal Resource Management; Department of Environmental Quality; Department of Public Safety; Department of Fire Division; Tinian Mayor's Office; Rota Mayor's Office; and Commonwealth Utility Corporation.

Ohio

<i>Commission Name</i>	Ohio State Emergency Response Commission
<i>Legal Basis</i>	Chapter 3750 Ohio Revised Code (ORC) Effective 12-14-88
<i>Commission Format</i>	Includes representatives from state and local government, industry, and environmental groups. The commission has nineteen voting members and two nonvoting elected officials from the state legislature.
<i>Co-Chairs</i>	Ohio Environmental Protection Agency Ohio Emergency Management Agency
<i>Commission Address</i>	Ohio Environmental Protection Agency SARA Title III P.O. Box 1049 Columbus, Ohio 43216-1049 (614) 644-2260 www.epa.ohio.gov/derr/serc/index.html
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Ohio Emergency Management Agency and Ohio Environmental Protection Agency ■ Right-to-know: Ohio Environmental Protection Agency; Right-to-Know Program ■ Recipient of Section 313 data: Ohio Environmental Protection Agency, Division of Air Pollution Control
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none"> ■ The Ohio EPA collected \$1.9 million in state fiscal 1999 Title III fees for grant distribution to LEPCs and state agencies on the SERC. ■ Section 3750.13 ORC establishes Section 312 submission fees and was amended on July 26, 1991, to reflect changes in needs of the program. A facility with no extremely hazardous chemicals and/or no more than five hazardous chemicals pays a \$100 fee. Larger

facilities that do not meet the above criteria and have more than five different chemicals pay \$100 plus \$10 for each chemical over five. The maximum fee a facility must pay is \$2,500. Additionally, a \$50 fee per extremely hazardous substance reported is required.

- A \$25 base fee is charged to oil and gas producers, with a \$10 surcharge for each additional oil and gas site over thirty-five reported.
- A late fee of an additional 15 percent of the regular Section 312 fee will be imposed on facilities that file chemical reports past the annual March deadline. Late fees are compounded quarterly.
- The state legislation mandates that covered facilities submit a list rather than individual MSDS forms.
- The state offers a 15 percent discount on the fee to facilities that submit chemical data by computer tape or diskette.
- Total fee revenue will be divided in the following proportions:

15 percent to 25 percent to the SERC;

60 percent to 75 percent to LEPCs; and

5 percent to 15 percent for first responder training.

- LEPCs must go through a grant application process administered by the SERC to receive Title III funding.
- The Ohio EPA estimates that total projected Title III program costs through state fiscal 1999 will amount to \$4.3 million.
- Of the eighty-seven county LEPCs, eighty-six submitted emergency response plans to the Ohio Emergency Management Agency as of October 1999. Seventy-three of the plans have been approved by the SERC.
- Eighty-six LEPCs exercised their plans in fiscal 1999.
- The Ohio SERC anticipates that LEPCs will continue to perfect local emergency plans and work on the following areas: conducting plan exercises, vulnerability and risk analysis, data management, and information dissemination.

- Local committee membership ranges in size from nine (Carroll County) to fifty-nine (Wood County), with an average-sized committee consisting of twenty-four members.

- Chapter 3751 of the Ohio Revised Code provides authority for a Toxic Release Inventory Program.

- Chapter 3750 provides a variance procedure by which an LEPC may add chemicals or facilities to the planning process. In addition, it contains provisions that allow fire departments to require placarding of hazardous substance storage areas and lock boxes of chemical data at the entrance of high-risk facilities.

LEPCs may take action through their county prosecutor and use penalties for their administrative costs.

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Local Emergency Planning Districts and Committees

Related State Laws

Enforcement Efforts

*Potential Liability of
SERC and LEPC
Members*

Ohio law provides limited immunity for SERC and LEPC members when they act within the scope of their statutory authority and if the conduct in question is not wanton, willful, reckless, malicious, or in bad faith. SERC and LEPC members are considered to be county or state employees for liability arising from their appointments to the commission/committee under Chapter 3750 of the new state legislation.

Related Information

The State Fire Marshal's Academy conducts first responder training using grant funds received from the Federal Emergency Management Agency and the U.S. Department of Transportation.

SERC Members

The head or designated representative of the following state agencies:

Ohio Environmental Protection Agency (chair);

Emergency Management Agency;

Public Utilities Commission;

Attorney General's Office;

State Fire Marshal's Office;

Department of Health;

Bureau of Employment Services;

State and Local Government Commission; and

Bureau of Workers' Compensation.

Other commission members include representatives of the following:

Ohio Chemical Council or the Ohio Petroleum Council;

Regulated industry representative;

Two environmental advocacy groups;

Municipal government;

County government;

Ohio Emergency Management Association;

Fire Chiefs' Association;

Professional Firefighters' Association;

Volunteer Firefighters' Association;

State senator; and

State representative.

Oklahoma

Commission Name

Oklahoma Hazardous Materials Emergency Response Commission

Legal Basis

OAC 252:020

Commission Format

Four state agencies, one cabinet secretary, one representative from the response community, and one representative from the regulated community.

<i>Chair</i>	Executive Director, Oklahoma Department of Environmental Quality
<i>Commission Address</i>	Oklahoma Department of Environmental Quality P.O. Box 1677 Oklahoma City, Oklahoma 73101-1677 (405) 702-1000
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Department of Civil Emergency Management ■ Right-to-know: Oklahoma Department of Environmental Quality ■ LEPC coordination: Oklahoma Department of Environmental Quality ■ Recipient of Sections 311-313 data: Oklahoma Department of Environmental Quality
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ County emergency plans include an annex that focuses on hazardous materials preparedness and response and contains site-specific information. ■ The state has seventy-seven county and three federal installations as LEPCs.
<i>SERC Members</i>	<p>Secretary of Safety and Security;</p> <p>Executive Director, Department of Environmental Quality;</p> <p>Commissioner, Department of Public Safety;</p> <p>Director, Department of Emergency Management;</p> <p>State fire marshal;</p> <p>Industry representative; and</p> <p>Response community representative.</p>

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Oregon

<i>Commission Name</i>	Oregon Interagency Hazard Communication Council/State Emergency Response Commission
<i>Legal Basis</i>	Oregon Revised Statutes (ORS) 453.510-453.527
<i>Commission Format</i>	Sixteen state agencies, three representatives from the general public, and two from local government.
<i>Chair</i>	Assistant to the Governor for Natural Resources
<i>Commission Address</i>	Oregon State Emergency Response Commission c/o Department of State Police Oregon Emergency Management 595 Cottage Street NE Salem, Oregon 97310 (503) 378-2911
<i>Agency Roles</i>	<p>State Fire Marshal</p> <p>4760 Portland Road NE</p> <p>Salem, Oregon 97305-1760</p> <p>(503) 378-3473</p> <p>(Right-to-know)</p> <p>Recipient of Section 313 data: State fire marshal</p>

*State Costs and
Approaches to Funding*

- The Community Right-to-Know Program has a total budget of \$2,593,445 for 1999–2001. These programs are financed using hazardous substance possession fee revenues.
- The hazardous substance possession fees also support the Toxic Use Reduction Program and fund the state Superfund program.
- The Regional Hazmat Teams Project has a total budget of \$1,987,506 for 1999–2001. A separate petroleum load fee provides funds to train and equip ten regional hazardous substance emergency response teams.

*Local Emergency
Planning Districts and
Committees*

Although the entire state is regarded as one emergency planning district, counties and cities are required to complete and submit local emergency plans to the SERC. One-half of the counties and one-third of the cities in the state submitted plans by the October 17, 1998, deadline. The county and city plans will be integrated into the state emergency plan.

*Related State Laws
Enforcement Efforts*

Community Right-to-Know and Protection Act, 1985

- The office of the state fire marshal began a program of enforcement investigation procedures. The state agency is empowered to enforce state and federal right-to-know provisions, conduct unannounced investigations of potential violators, and levy penalties.
- The state fire marshal's office has four staff members responsible for providing assistance, consultation, and enforcement.

*Potential Liability of
SERC and LEPC
Members*

The Oregon Tort Claims Act requires the governing board of every public body to defend and indemnify its officers, employees, and agents, whether elected or appointed, against tort claims arising out of an alleged act or omission occurring in the performance of a duty. LEPC members would be considered officers, employees, or agents of state or local government and, therefore, would be protected against personal liability so long as their actions were performed within the scope of their employment or duties and did not constitute malfeasance or gross negligence. LEPC members are immune from liability for those functions that are discretionary in nature. Although the interpretation provided by the Oregon Department of Justice only addressed the potential tort liability of LEPC members, it appears that the same applies to SERC members.

Related Information

- The state fire marshal's office, which presently administers the Oregon Community Right-to-Know and Protection Act, receives Sections 302, 303, 311, 312, and 313 data, and incorporates most of that information into an existing database.
- U.S. EPA officials agreed to allow the state fire marshal's office to distribute its own hazardous chemical information form for Section 312. The state fire marshal's office distributed the form to approximately 25,000 covered facilities this year. The computerized system combines material safety data sheets and Tier II information.

- A statewide hazardous materials incident reporting system has been in place for several years. Data collected have been used for planning and funding decisions.
- The state fire marshal serves as a repository for hazardous chemical information for state fire departments. Fire departments can access community right-to-know and chemical information specific to their own jurisdictions on a twenty-four-hour basis. Data can be obtained for an entire jurisdiction or for a particular facility.

SERC Members

Assistant to the Governor for Natural Resources (chair);
 Director, Department of Environmental Quality;
 Director, Department of Energy;
 Director, Department of Transportation;
 Director, Department of Agriculture;
 Assistant Director, Department of Health;
 Director, Department of Fish and Wildlife;
 Administrator, Accident Prevention Division, Workers' Compensation Department;
 Director, Emergency Management Division, State Police Department;
 State Fire Marshal, State Police;
 Superintendent, State Police;
 State Forester;
 Director, Poison Control and Drug Information Program;
 Chair, Department of Agricultural Chemistry, Oregon State University;
 Chairperson, Public Utility Commission;
 Director, Center for Occupation Disease Research, Oregon Health Sciences University; and
 Five public members, representing the Oregon Fire Chiefs' Association; county sheriff; associated Oregon industries; the Oregon Trucking Association; and a public interest group.

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Pennsylvania

<i>Commission Name</i>	Pennsylvania Emergency Management Council (PEMC)
<i>Legal Basis</i>	Hazardous Material Emergency Planning and Response Act (Act 1990-165)
<i>Commission Format</i>	Based on an existing Emergency Management Council. Additional members include public and private sector representatives.
<i>Chair</i>	Lieutenant Governor

Commission Address

Pennsylvania Emergency Management Council
 c/o Pennsylvania Emergency Management Agency
 P.O. Box 3321
 Harrisburg, Pennsylvania 17105-3321
 (717) 651-2199

Agency Roles

- Emergency planning: Pennsylvania Emergency Management Agency (PEMA)
- Right-to-know: Department of Labor and Industry, Bureau of PennSafe
- Recipient of Section 313 data: Department of Labor and Industry, Bureau of PennSafe

State Costs and Approaches to Funding

- Pennsylvania Act 165 established two fee accounts, one at the county level and one at the state level. Under the county fund, facilities pay an annual fee of between \$35 and \$75 (as determined by county ordinance) for each chemical reported on the Tier II report. Additionally, up to \$100 (the exact amount is set by county ordinance) is paid annually by each SARA planning facility.
- The state Hazardous Material Response Fund (HMRP) is a restricted revenue account used to administer emergency planning/response and data collection/dissemination functions at the state and county levels. The fund consists of an annual \$10 fee for each chemical on the Tier II reports. A registration fee of \$1,000 was paid the first year (1990) by facilities filing a toxic chemical release inventory (TRI) report for calendar year 1989. For the 1990 report year and subsequent years, the fee is \$250 per TRI chemical, with a cap of \$5,000 per facility.
- The state HMRP provides grants to counties to supplement local programs and for special needs, as well as administrative costs related to hazardous material response team training; public and facility owner education, information, and participation programs; and general administration and operational expenses of the act.

Local Emergency Planning Districts and Committees

- In Pennsylvania, each county is designated a local emergency planning district and thus, each has a local emergency planning committee (LEPC). Act 165 specifies that the local committees shall be composed of the county emergency management coordinator, one county commissioner, and at least one person appointed by the council from each of the following groups: local government elected officials; law enforcement, first aid, health, local environmental, hospital, and transportation personnel; firefighting personnel; civil defense and emergency management personnel; broadcast and print media; community groups not associated with emergency service groups; and owners and operators of facilities subject to SARA Title III requirements.

Related State Laws

Enforcement Efforts

*Potential Liability of
SERC and LEPC
Members*

Related Information

SERC Members

- The LEPC elects a chairperson from its members. The county emergency management coordinator has the lead responsibility for ensuring that the activities of the LEPC comply with Act 165, P.L. 1332 and SARA Title III.

Worker and Community Right-to-Know Act, 1984

The state is enforcing its own worker and community right-to-know law.

Pennsylvania law provides for the legal defense of a state or local employee by the attorney general, or by counsel for the local agency, when the act of the employee that gave rise to the claim was within the scope of his or her office or duties. There is statutory support for the assumption that both SERC and LEPC members will come under the definition of "employee" as it is used in the statute.

- The Emergency Management Council was created in 1978 by the Emergency Services Act No. 1978-323 (amended in 1988), which is the current law that directs the Pennsylvania Emergency Management Agency (PEMA) and the council's emergency response actions.

- The council uses every opportunity to educate and train LEPC members, regulated personnel, and the community through conferences, seminars, lectures, discussions, press releases, and responses to requests for information. The Bureau of PennSafe in the Department of Labor and Industry acts as the repository of right-to-know data generated by SARA Title III/Act 165. It has established procedures to provide this information to the public in an efficient manner. This capability encourages an ongoing dialogue among all members of the public concerned about the nature and potential effects of hazardous chemicals in the community.

- A SARA Title III/Act 165 compliance manual for business and industry was developed by PEMA and the Bureau of PennSafe. The manual was mailed to all owners/operators who submitted the annual chemical inventory form in 1990. The manual has been updated and is still issued to facility owners/operators. Copies of the manual may be received by calling PennSafe at (717) 783-2071.

- As mandated by Act 165, an annual report on SARA Title III/Act 165 activities is prepared by PEMA and submitted to the Governor and the General Assembly. A copy is provided to each state emergency management director, the National Emergency Management Association, and the National Governors' Association.

Governor;

Lieutenant Governor;

Director, Pennsylvania Emergency Management Agency;

President Pro Tempore, State Senate;

Speaker, State House of Representatives;

Minority Leaders, State House and Senate;

Adjutant General;
 Attorney General;
 General Counsel;
 Chairman, Public Utility Commission;
 Commissioner, State Police;
 Secretary, Department of Health;
 Secretary, Department of Environmental Protection;
 Secretary, Department of Transportation;
 Secretary, Department of Agriculture;
 Secretary, Department of Public Welfare;
 Secretary, Department of Labor and Industry;
 Representatives from the public and private sector; and
 Representatives of industry.

Puerto Rico

<i>Commission Name</i>	Puerto Rico Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 4916A Established April 27, 1987
<i>Commission Format</i>	The Commission is an expansion of the existing Puerto Rico Environmental Quality Board for Environmental Emergency Response and consists of the chair of the Environmental Quality Board, nine state agencies, the attorney general, and four representatives of local industry.
<i>Chair</i>	Chair of the existing Puerto Rico Environmental Quality Board
<i>Commission Address</i>	Puerto Rico Environmental Quality Board Office of the Governor Box 11488 San Juan, Puerto Rico 00910 (787) 767-8056 (787) 751-6274
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Environmental Quality Board ■ Right-to-know: Environmental Quality Board ■ Recipient of Section 313 data: Environmental Quality Board
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none"> ■ The Environmental Quality Board estimates that \$100,000 in general funds was spent on emergency planning activities and \$150,000 for right-to-know efforts. ■ Funding for Title III also was obtained from the Emergency Fund under Law No. 81 (state superfund law).
<i>Local Emergency Planning Districts and Committees</i>	Nine existing civil defense emergency zones were designated as local emergency planning districts.

SERC Members

Chair, Environmental Quality Board;
Attorney General;
Secretary, Department of Natural Resources;
Secretary, Department of Health;
Secretary, Department of Labor and Human Resources Director, Civil Defense;
Superintendent, Puerto Rico Police Department;
Chief, Puerto Rico Fire Department;
Adjutant General, National Guard;
Alternate Member, Caribbean Regional Response Team;
President, University of Puerto Rico;
Chair, Public Service Commission;
Director, Puerto Rico Hazardous Waste Program;
Associate Member, Environmental Quality Board; and
Four members of local industry.

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Rhode Island

<i>Commission Name</i>	Rhode Island State Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 99-5
<i>Commission Format</i>	Six state agencies and representatives from local emergency response organizations
<i>Chair</i>	Rhode Island Emergency Management Agency
<i>Commission Address</i>	Division of State Fire Marshal 24 Conway Avenue North Kingstown, Rhode Island 02852 (401) 294-0861
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Emergency Management Agency and Division of State Fire Marshal■ Right-to-know: Department of Labor and Division of State Fire Marshal■ Recipient of Section 313 data: Department of Environmental Management, Division of Air and Hazardous Materials
<i>State Costs and Approaches to Funding</i>	<ul style="list-style-type: none">■ The state spent approximately \$350,000 on Title III in fiscal 1993 out of general fund appropriations.■ The state has proposed legislation that would allow the SERC to establish and collect fees. Collected revenue would be distributed to LEPCs.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none">■ Nine mutual aid agreements boundaries were designated as local emergency planning districts. The agreements, formed prior to Title III, are based on informal relationships and guidelines between cities and towns.■ As of December 1999, each of the nine LEPCs submitted local emergency plans to the SERC.

<i>Related State Laws</i>	<ul style="list-style-type: none"> ■ Hazardous Substances Right-to-Know Act, 1983 ■ Rhode Island Community Right-to-Know Act
<i>Enforcement Efforts</i>	The state is enforcing its own hazardous substances right-to-know law.
<i>Related Information</i>	The state has developed a Title III computer database that contains facility information concerning emergency planning, chemical inventories, and annual emissions. This information is accessible to first responders twenty-four-hours a day, with a modem and PC.
<i>SERC Members</i>	<p>The director or designated representative of the following agencies:</p> <ul style="list-style-type: none"> Division of State Fire Marshal; Emergency Management Agency; Labor Department; Health Department; Environmental Management Department; Office of the Governor; Statewide Planning, Administration Department; The League of Cities and Towns; Fire Chiefs' Association; Police Chiefs' Association; and Industry.

South Carolina

<i>Commission Name</i>	South Carolina State Emergency Response Commission
<i>Legal Basis</i>	<p>Executive Order 87-17, May 11, 1987</p> <p>Superceded by Executive Order 93-27, December 14, 1993</p>
<i>Commission Format</i>	The commission includes six representatives from state agencies, two industry officials, and two members from the general public.
<i>Chair</i>	Director, Emergency Preparedness Division, Office of the Adjutant General
<i>Commission Address</i>	<p>South Carolina Emergency Response Commission</p> <p>Emergency Preparedness Division</p> <p>1429 Senate Street</p> <p>Columbia, South Carolina 29201</p> <p>(803) 734-8020</p> <p>EPCRA Reporting Point:</p> <p>2600 Bull Street</p> <p>Columbia, South Carolina 29201</p>
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Emergency Preparedness Division, Office of the Adjutant General ■ Recipient of Section 302 data: EPCRA Reporting Point, Department of Health and Environmental Control

	<ul style="list-style-type: none"> ■ Right-to-know: EPCRA Reporting Point, Department of Health and Environmental Control ■ Recipient of Section 313 data: EPCRA Reporting Point, Department of Health and Environmental Control
<i>State Costs and Approaches to Funding</i>	The state has not appropriated funds for the SERC. Funding for SERC activities has been absorbed by state agency and local government budgets.
<i>Local Emergency Planning Districts and Committees</i>	Each of the forty-six counties has an existing local comprehensive emergency preparedness plan that contains a hazardous materials annex. All counties also have an emergency preparedness or civil defense organization legally based on State Regulations 58-1, local emergency preparedness standards, and 58-101, state emergency preparedness standards. Title III requirements have been incorporated into the hazardous materials annex.
<i>Related State Laws</i>	Section 21 of Act 199 (1979) establishes the Emergency Preparedness Division in the Office of the Adjutant General and the preparation of a state emergency response plan.
<i>Enforcement Efforts</i>	Because the state does not have its own right-to-know law, it does not have a legal basis for enforcement of Title III at the state level, except in those limited areas in which it is empowered by Title III provisions.
<i>Potential Liability of SERC and LEPC Members</i>	Statutory grounds exist for considering SERC and LEPC members to be "state employees" as the term is used in the South Carolina statute that provides immunity for state employees. An employee of a governmental entity who commits a tort is not liable, unless it is proved that the employee's conduct was not within the scope of his or her official duties or that it constituted actual fraud or malice, intent to harm, or a crime involving moral turpitude.
<i>Related Information</i>	<ul style="list-style-type: none"> ■ The commission has a twenty-four-hour notification number for oil spills and releases of hazardous substances, (803) 253-6488 or (888) 481-0125, that is staffed by the Department of Health and Environmental Control. ■ The South Carolina SERC prefers to receive on disk or in e-mail from Tier II for Windows; hard copy may be sent to LEPCs or fire departments.
<i>SERC Members</i>	<p>Director, Emergency Preparedness Division, Office of the Adjutant General;</p> <p>Representative, Office of the Governor;</p> <p>Representative, Department of Health and Environmental Control;</p> <p>Representative, Department of Public Safety;</p> <p>Representative, State Law Enforcement Division;</p> <p>Representative, State Fire Marshal;</p> <p>Two members of local industry; and</p> <p>Two members at large.</p>

South Dakota

<i>Commission Name</i>	South Dakota State Emergency Response Commission
<i>Legal Basis</i>	SDCL 1-50
<i>Commission Format</i>	Composed of four state government representatives and six private citizens.
<i>Chair</i>	Private citizen
<i>Commission Address</i>	South Dakota Emergency Response Commission Department of Environment and Natural Resources Ground Water Quality Program 523 East Capitol Street, Joe Foss Building Pierre, South Dakota 57501-3181 (605) 773-3296
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Division of Emergency and Disaster Service■ Right-to-know: Department of Environment and Natural Resources■ Recipient of Section 313 data: Department of Environment and Natural Resources
<i>State Costs and Approaches to Funding</i>	The majority of funding for the EPCRA program came from existing agency budgets until July 1992. At that time, reporting fees for both Tier II reports and Form R submissions became effective. The fees range from \$50 to \$300 per facility for Tier II, and from \$250 to \$3,000 per facility for Form R. These funds will be used to support future activities.
<i>Local Emergency Planning Districts and Committees</i>	South Dakota has a total of sixty-six counties with a total of 61 LEPCs. Fifty-nine counties are designated as planning districts with LEPCs based at the county level. The other seven counties are covered by two multi-county districts. The state provides grants to local committees that meet eligibility requirements and apply for funding. Thirty-five grants were distributed for fiscal 2000.
<i>Potential Liability of SERC and LEPC Members</i>	The South Dakota Supreme Court held in <i>Kyllo V. Panzer</i> (S. Ct. 1995, 535 N.W.2d 896) that employees, officers, and agents of the state are protected by the doctrine of sovereign immunity when performing discretionary acts, but may be subject to personal liability for negligent or intentional injuries resulting from their performance of ministerial duties.
<i>Related Information</i>	<ul style="list-style-type: none">■ Until July 1991, the commission was authorized by executive order and consisted of seven private citizens appointed by the Governor. Now, under state law, the commission is composed of four state agency representatives and six private citizens.■ The Department of Environment and Natural Resources established training programs in cooperation with the Division of Emergency and Disaster Service, the State Fire Marshal's Office, and other government agencies to educate emergency response planners and personnel. Assistance has been provided to the counties in developing their hazardous material response plans.

SERC Members

Secretary, Department of Environment and Natural Resources;
Secretary, Department of Commerce and Regulation;
Secretary, Department of Transportation;
Director, Division of Emergency Management; and
Six private citizens drawn from each of the following groups:
Elected or appointed representatives of political subdivisions;
Active firefighters;
Health professionals;
Persons actively engaged in an agricultural business;
LEPC members; and
Industry.

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Tennessee

<i>Commission Name</i>	Tennessee State Emergency Response Council
<i>Legal Basis</i>	Executive Order No. 7 Established April 1, 1987
<i>Commission Format</i>	Three state agencies with an advisory committee reporting to the council. The advisory committee includes state agencies, local government, and associations.
<i>Chair</i>	Director, Emergency Management Agency
<i>Commission Address</i>	Tennessee Emergency Response Council c/o Tennessee Emergency Management Agency 3041 Sidco Drive Nashville, Tennessee 37204-1502 (615) 741-0001
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Emergency Management Agency■ Right-to-know: Emergency Management Agency■ Recipient of Section 313 data: State Emergency Response Commission
<i>State Costs and Approaches to Funding</i>	Approximately \$125,000 in general funds was spent on chemical emergency planning activities in fiscal 1995.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none">■ All ninety-five county LEPCs submitted local emergency plans, which have been reviewed by the SERC.■ All counties had emergency response structures in place prior to Title III.
<i>Related State Laws</i>	<ul style="list-style-type: none">■ Hazardous Chemical Right-to-Know Law, 1985
<i>Potential Liability of SERC and LEPC Members</i>	The issue of potential liability of SERC and LEPC members is currently being reviewed by the Office of the Attorney General.

SERC Members

Director, Emergency Management Agency;
 Commissioner, Department of Environment and Conservation; and
 Commissioner, Department of Labor.

Hazardous Materials Advisory Committee members include
 representatives of the following:

Department of Safety;
 Department of Transportation;
 State Fire Marshal's Office;
 American Red Cross;
 Municipal League;
 County Services Association; and
 Tennessee Association of Business.

Texas

<i>Commission Name</i>	Texas State Emergency Response Commission
<i>Legal Basis</i>	Executive Order AWR-94-14
<i>Commission Format</i>	A standing element of the state's Emergency Management Council. Composed of representatives of eleven state departments, commissions, and agencies.
<i>Chair</i>	State Coordinator of the Division of Emergency Management
<i>Commission Address</i>	Texas State Emergency Response Commission Division of Emergency Management P.O. Box 4087 Austin, Texas 78773-0220 (512) 424-2138
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Division of Emergency Management, Emergency Notification: Texas Natural Resources Conservation Commission and Texas Railroad Commission, depending on the substance involved ■ Right-to-know: Texas Department of Health, Hazard Communication Branch ■ Recipient of Section 313 data: Texas Natural Resources Conservation Commission
<i>State Costs and Approaches to Funding</i>	Approximately \$620,000 in reporting fees is generated annually and is used to support emergency planning and community right-to-know activities, including periodic grants to LEPCs for specific purposes.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none"> ■ Emergency planning districts generally follow county lines, except that multiple districts have been approved in Crosby, Galveston, and Harris Counties and there are two bi-county districts. There are 272 LEPCs in the state.

Related State Laws

- Approximately 86 percent of the state's population is covered by city, county, or multijurisdictional emergency plans which meet state standards for hazardous materials planning. An additional 11 percent is covered by partial planning.
- Texas Hazard Communication Act, 1993
- Agricultural Hazard Communication Act, 1987
- Texas Disaster Act, 1975
- Texas Community Right-to-Know Acts (3)
- Texas Hazardous Substances Spill Prevention and Control Act

Enforcement Efforts

The state is enforcing its own right-to-know laws.

Potential Liability of SERC and LEPC Members

The Texas Disaster Act exempts LEPC members from personal liability for civil damages arising from the members' duties on the committee.

Related Information

- The Division of Emergency Management operates the State Environmental Hotline, a toll-free, 24-hour number for initial spill reporting by industry. Reports received are disseminated electronically to appropriate state agencies.
- The Division of Emergency Management publishes the *Texas LEPC Handbook*.

SERC Members

The head or designated representatives of the following agencies and organizations:

Texas Department of Agriculture;
Texas Department of Health;
Texas Department of Transportation;
Texas Department of Parks and Wildlife;
Texas Department of Public Safety;
Texas Natural Resources Conservation Commission;
General Land Office;
Texas Engineering Extension Service;
Division of Emergency Management;
Texas Railroad Commission; and
Texas Commission on Fire Protection.

Utah

<i>Commission Name</i>	Utah Hazardous Chemical Emergency Response Commission
<i>Legal Basis</i>	Chapter 63-5-5 Utah Code Annotated Legislation S. B. 79
<i>Commission Format</i>	Two state agencies
<i>Chairs</i>	Commissioner, Department of Public Safety Executive Director, Department of Environmental Quality

Commission Addresses

Utah Department of Public Safety, Division of Comprehensive
Emergency Management
1110 State Office Building
Salt Lake City, Utah 84114
(801) 538-3400
(Emergency planning)
www.eq.state.ut.us/eqerr/serc/serchome.htm

Utah Department of Environmental Quality
168 North 1950 W.
P.O. Box 144840
Salt Lake City, Utah 84114-4840
(801) 536-4400
(Right-to-know)

Agency Roles

- Emergency planning: Department of Public Safety
- Right-to-know: Department of Environmental Quality
- Recipient of Section 313 data: Department of Environmental Quality

State Costs and Approaches to Funding

In fiscal 1998, approximately \$50,000 in general funds was spent on emergency planning efforts and \$100,000 was used for right-to-know activities.

Local Emergency Planning Districts and Committees

The thirty-two local emergency planning committees include three cities—Salt Lake, West Valley, and Sandy—and twenty-nine counties.

Potential Liability of SERC and LEPC Members

As long as SERC and LEPC members are Utah state employees acting within the scope of their employment and they have not acted with fraud or malice or been under the influence of alcohol or any drug, they will be defended and indemnified by the state in lawsuits arising from their activities as SERC and LEPC members. However, LEPC member eligibility for state protection is determined on a case-by-case basis, depending on whether the member is considered a "political subdivision" employee of Utah.

SERC Members

Representatives of the following state agencies:

Department of Public Safety; and
Department of Environmental Quality.

Vermont

Commission Name

Vermont State Emergency Response Commission

Legal Basis

20 VSA, Chapter 1

Commission Format

Six state agencies, one police representative, one fire representative, one industry official, one from the general public, and one representative of the transportation industry. The state director of emergency management serves as a nonvoting secretary to the SERC.

Chair

Appointed by the Governor

Commission Address

Vermont Emergency Response Commission
Department of Public Safety
Vermont Emergency Management Division
103 South Main Street
Waterbury, Vermont 05671
www.dps.state.vt.us/vem/index_hazmat.htm

Agency Roles

- Emergency planning: Department of Public Safety, Division of Emergency Management
- Right-to-know: Department of Public Safety, Division of Emergency Management
- Recipient of Section 313 data: Department of Environmental Conservation

*Local Emergency
Planning Districts and
Committees*

- Vermont's planning districts follow county boundaries; four LEPC districts cover two counties. The other six districts cover six counties.
- The state has ten LEPCs.

Related State Laws

- Community Right-to-Know Law, 1985
- 20 VSA Chapter 1 and Rules & Regs also provides for fees, establishment of a SERC and local emergency planning districts, and reporting to the SERC of chemicals that are considered hazardous under the federal OSHA hazard communication standard.

Enforcement Efforts

The state is enforcing its own Community Right-to-Know Law.

*Potential Liability of
SERC and LEPC
Members*

20 VSA Chapter 1 provides immunity for persons involved in civil defense or emergency management activities and additionally grants immunity for persons, partnerships, associations, or corporations that provide personnel, training, or equipment.

SERC Members

Commissioner, Department of Labor and Industry;
Commissioner, Department of Public Safety;
Commissioner, Department of Health;
Commissioner, Department of Agriculture;
Secretary, Department of Transportation;
Secretary, Department of Environmental Conservation;
Representative of industry;
Representative from the fire service;
Representative from the police service;
Representative from the transportation industry; and
Representative of the general public.

Virgin Islands

<i>Commission Name</i>	Virgin Islands Environmental Emergency Response Commission
<i>Legal Basis</i>	Executive Order No. 302-1987
<i>Commission Format</i>	Representatives from twelve state offices, two private sector representatives, and the president of the University of the Virgin Islands.
<i>Chair</i>	Commissioner, Department of Planning and Natural Resources
<i>Commission Address</i>	Virgin Islands Environmental Emergency Response Commission Misky Center, Suite 231 Misky #45 A St. Thomas, U.S. Virgin Islands 00802 (340) 774-3320
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Virgin Islands Environmental Emergency Response Commission ■ Right-to-know: Virgin Islands Environmental Emergency Response Commission ■ Recipient of Section 313 data: Virgin Islands Environmental Emergency Response Commission
<i>Local Emergency Planning Districts and Committees</i>	In July 1989, LEPCs for three jurisdictions were formed: St. Croix, St. Thomas, and St. John.
<i>SERC Members</i>	<p>Representatives from:</p> <ul style="list-style-type: none"> Virgin Islands Territorial Emergency Management Agency; Department of Health; Department of Public Works; Department of Labor; Office of the Attorney General; Division of Environmental Protection; Division of Comprehensive and Coastal Zone Planning; Division of Fish and Wildlife; Virgin Islands Port Authority; Virgin Islands Fire Service; Virgin Islands Police Department; President, University of the Virgin Islands; and Two representatives from the private sector.

Virginia

<i>Commission Name</i>	Virginia Emergency Response Council (VERC)
<i>Legal Basis</i>	Section 44-146. 40 of the Code of Virginia
<i>Commission Format</i>	Agency heads, or their designees, of six state agencies.
<i>Chair</i>	State Coordinator, Department of Emergency Services
<i>Commission Address</i>	Virginia Emergency Response Council c/o Department of Environmental Quality 629 East Main Street Richmond, Virginia 23219 (804) 698-4489
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency planning: Department of Emergency Services■ Right-to-know: Department of Environmental Quality■ Recipient of Section 313 data: Department of Environmental Quality
<i>State Costs and Approaches to Funding</i>	SARA Title III funding for emergency planning and community right-to-know activities is funded by state general funds and by federal grants.
<i>Local Emergency Planning Districts and Committees</i>	<ul style="list-style-type: none">■ All 114 LEPCs have a draft or final local emergency plan on file with the SERC.■ An updated and expanded oil and hazardous materials prototype annex for local emergency operations plans has been developed and made available to LEPCs to use as guidance in developing and updating their SARA Title III plans. This prototype addresses response to oil spills and all hazardous materials incidents.■ Several documents have been produced and distributed by the VERC staff, including "Understanding SARA Title III: Emergency Planning and Community Right to Know in Virginia." Copies of "Local Emergency Planning: An Outreach Manual to LEPCs," containing useful references and resource materials of interest to LEPCs, have been distributed. This manual outlines the various reporting sections of EPCRA, provides helpful hints for LEPC outreach activities, and includes many of the LEPC guidance documents prepared by U.S. EPA.
<i>Related State Laws</i>	Section 44-146. 34 of the Code of Virginia, the Virginia Hazardous Materials Emergency Response Program
<i>Enforcement Efforts</i>	<ul style="list-style-type: none">■ VERC is encouraging voluntary Title III compliance by relying on public outreach activities to inform regulated facilities about the requirements of the law.■ The SARA Title III program of the Department of Environmental Quality has provided education, technical assistance, and outreach to federal Department of Defense facilities in the commonwealth that must comply with the August 3, 1993, Executive Order No. 12856.

*Potential Liability of
SERC and LEPC
Members*

In an informal interpretation of Virginia law, the Office of the Attorney General of Virginia expressed the opinion that SERC and LEPC members would be protected by the common law doctrine of sovereign immunity for negligent acts or omissions. However, the doctrine would not protect any member whose acts constituted gross negligence or an intentional tort. Additionally, because these members are agents of the commonwealth, the Virginia Tort Claims Act applies to their activities. Accordingly, the commonwealth could be liable for the negligent acts of the members even though the members personally enjoyed sovereign immunity.

Related Information

- VERC encouraged facilities to submit a list of hazardous chemicals in lieu of submitting a MSDS for each chemical.
- VERC obtained liability insurance coverage for all LEPC members for any claim made against them for acts, errors, or omissions of any nature while they are acting in their authorized governmental capacity and in the course and scope of their authorization.
- VERC initiated a LEPC newsletter entitled *LEPC Connections* in the fall of 1998, which is distributed on a quarterly basis. The newsletter is a vehicle to help LEPCs exchange information and keep abreast of state and federal initiatives.
- VERC developed a hazardous materials database using the Computer-Aided Management of Emergency Operations (CAMEO) software through a grant provided by EPA Region III. Facility and chemical data from Tier II forms received from regulated facilities, along with hazardous materials resource information, were incorporated into the database. The database was developed by LEPC planning districts and aggregated by the 13 HAZMAT Team regions. Regional data were distributed to the 10 state Hazardous Materials officers and the 13 Hazardous Materials Emergency Response Teams on zip disk and CD for use in the field. LEPC planning district data were distributed to each LEPC on 3 1/2" floppy disk. In the upcoming year, the VERC will be looking at how to integrate facility mapping into the database using GIS.
- VERC sponsored *EPCRA/CERCLA Emergency Notification (Release Reporting) Training Workshops* and *CAMEO Software Training Workshops* in the state in coordination with U.S. EPA Region III.

SERC Members

Representatives from:

Department of Emergency Services (Chair);
Department of Environmental Quality;
Department of Mines, Minerals and Energy;
Department of Fire Programs;
Department of Health;
Department of Labor and Industry; and
Department of State Police.

Washington

<i>Commission Name</i>	Washington State Emergency Response Commission
<i>Legal Basis</i>	Letter from former Governor Booth Gardner to the U.S. EPA Regional Administrator, Region X, and Washington Administrative Code 118-40 and Chapter 38.52.040 of the Revised Code of Washington
<i>Commission Format</i>	Subcommittee of the Emergency Management Council (EMC) with 12 members
<i>Chair</i>	Elected from within the EMC by a majority vote of the membership.
<i>Commission Address</i>	Washington State Emergency Response Commission Emergency Management Division Military Department Building 20, MS:TA-20 Camp Murray, WA 98430-5122 (253) 512-7069
<i>Agency Roles</i>	<ul style="list-style-type: none">■ Emergency policy planning and management■ Implementation of EPCRA■ Development of emergency management policies■ Annual assessment of statewide emergency preparedness
<i>State Costs and Approaches to Funding</i>	Approximately \$150,000 in general funds was spent on emergency planning, \$75,000 on hazardous materials exercises, \$150,000 on hazardous materials responder training, and \$70,000 on right-to-know activities in fiscal 1999.
<i>Local Emergency Planning Districts and Committees</i>	Thirty-nine counties and seven cities were designated as local emergency planning districts, and each has formed its own local emergency planning committee.
<i>Related State Laws</i>	<ul style="list-style-type: none">■ RCW 38.52 (1995) consolidates all emergency management functions under the Washington State Emergency Management Council.■ RCW 90.56 (1990), Oil and Hazardous Substance Spill Bill■ RCW 4.24.480 (1988) provides immunity from liability to SERC and LEPC members who develop or review local chemical emergency plans.■ RCW 70.102 (1985), Hazardous Substance Information Act■ RCW 47.70 (1984), Worker and Community Right-to-Know Act
<i>Enforcement Efforts</i>	The state is enforcing its own worker and community right-to-know act (RCW 70.102).
<i>Potential Liability of SERC and LEPC Members</i>	Any person who is appointed to serve on the SERC or local emergency planning committee who, in good faith, assists in the development or review of local plans to respond to hazardous materials incidents is not liable for civil damages as a result of any act.

SERC Members

Washington State Department of Ecology;
 Washington State Department of Health;
 Washington State Department of Transportation;
 Washington State Military Department;
 Washington State Patrol;
 Local Emergency Manager;
 Local Emergency Planning Committee—Eastside;
 Local Emergency Planning Committee—Westside;
 Washington State Association of Fire Chiefs;
 Washington State Department of Labor and Industries; and
 Private Industry;
 Transportation Industry

West Virginia

<i>Commission Name</i>	West Virginia State Emergency Response Commission
<i>Legal Basis</i>	Established April 15, 1987 by Executive Order No. 5-87 West Virginia Emergency Response and Community Right-to-Know Act, Chapter 15, Article 5A Code of West Virginia, Effective July 8, 1989
<i>Commission Format</i>	Eight state agencies, one representative from the chemical industry, one representative from a municipal or volunteer fire department, and one citizen from the general public.
<i>Chair</i>	Director, Office of Emergency Services
<i>Commission Address</i>	West Virginia Emergency Response Commission State Capitol Building, Room EB-80 Charleston, West Virginia 25305 (304) 558-5380 www.state.wv.us/wvoes/s_e_r.htm
<i>Agency Roles</i>	<ul style="list-style-type: none"> ■ Emergency planning: Office of Emergency Services ■ Right-to-know: Office of Emergency Services ■ Recipient of Section 313 data: Office of Emergency Services
<i>State Costs and Approaches to Funding</i>	The fee system yielded approximately \$107,000 in 1999 on the filing of 1998 reports. These filing fees are utilized to support the SERC, to make SERC grants to LEPCs, and to match HMEP Planning and Training Grants.
<i>Local Emergency Planning Districts and Committees</i>	Fifty single-county LEPCs and five LEPCs consisting of two counties are operational covering all of the state's fifty-five counties.
<i>Related State Laws</i>	Hazardous Chemical Substances Act, 1981
<i>Enforcement Efforts</i>	Enforcement is accomplished through a coordinated program involving the SERC, LEPCs, and U.S. EPA.

*Potential Liability of
SERC and LEPC
Members*

There is limited liability within the scope of West Virginia law.

SERC Members

Director, Office of Emergency Services;
Director, Division of Natural Resources;
Director, Bureau of Public Health;
Director, Office of Air Quality;
Superintendent, West Virginia State Police;
Commissioner, Division of Highways;
Representative, chemical industry;
Designee of the Public Service Commission;
Designee of the State Fire Marshal's Office;
Representative, municipal or volunteer fire department; and
Representative of the public, knowledgeable in the area of emergency response.

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Wisconsin

Commission Name

Wisconsin State Emergency Response Board (SERB)

Legal Basis

Executive Order No. 13
Established April 15, 1987
1987 Wisconsin Act 342, published May 2, 1988
1989 Wisconsin Act 115, published December 19, 1989
1997 Wisconsin Act 27, published October 13, 1997

Commission Format

One agency as of July 1, 1998.

Chair

Administrator, Division of Emergency Management, Department of
Military Affairs

Commission Address

Wisconsin Division of Emergency Management
Department of Military Affairs
2400 Wright Street
P.O. Box 7865
Madison, Wisconsin 53707-7865
(608) 242-3232

Agency Roles

- Emergency planning: Wisconsin Division of Emergency Management (WEM), Department of Military Affairs
- Right-to-know: Division of Emergency Management, Department of Military Affairs
- Recipient of Section 313 data: Department of Natural Resources, Office of Technical Services

*State Costs and
Approaches to Funding*

- 1987 Wisconsin Act 342 established a fee mechanism for Title III activities. The SERB promulgated an administrative rule, Chapter SERB1, to establish the following fees:

Emergency planning notification fee of \$800 (one-time fee for Section 302)

Hazardous chemical inventory form fee (Tier II/annually) based on number of chemicals reported:

1 chemical	\$150
2 to 10 chemicals	\$300
11-100 chemicals	\$450
101-200 chemicals	\$550
201-300 chemicals	\$650
301-400 chemicals	\$750
401-500 chemicals	\$850
Over 500 chemicals	\$950

If the cumulative actual daily amounts total 100,000 pounds or more, 20 percent is added to the fee listed above.

There is a 20 percent surcharge on balance of fee when past due.

Fees are collected by WEM. The fees fund an emergency planning grant program for LEPCs and seven full-time positions with the Division of Emergency Management EPCRA Program.

Grants can be used to reimburse the county-based LEPCs for planning and administrative expenses, exercise costs, and 80 percent of the cost of computer and hazardous materials response equipment (up to a maximum of \$10,000 in matching funds for hazmat response equipment for county teams and/or up to a maximum of \$6,000 for computer equipment. Total not to exceed \$10,000).

For 1988, the SERB awarded approximately \$480,000 in grants to LEPCs. For 1989, the SERB awarded approximately \$650,000 in grants to LEPCs. The 1988 and 1989 grant awards were funded by fees from facilities and a \$517,900 general purpose revenue (GPR) loan. This reimbursed counties for 100 percent of their eligible expenses. For 1994, the SERB awarded \$1,254,000 in grants; for 1995, \$1,258,000; for 1996, \$1,300,000; and for both 1997 and 1998, \$1,300,400.

Approximately \$500,000 in program funds are used to fund the state SARA Title III program. In addition to the dedicated positions, other staff at WEM and other state agencies provide support to the Title III program.

- \$150,000 in state funds annually are received from the Department of Natural Resources and Department of Transportation to provide hazardous materials training for fire departments, response teams, and law enforcement personnel in the state.
- Directors of the state's six emergency management regions assist in the review of local emergency plans. The emergency management regional directors work with counties coordinating and facilitating the activities of local emergency planning committees within their

*Local Emergency
Planning Districts and
Committees*

geographical areas. The emergency management director from each county is a member of that county's local emergency planning committee.

- Wisconsin's seventy-two counties are local emergency planning districts.
- All seventy-two LEPCs had submitted local emergency plans to SERB as of August 1991 and have also developed 2,900 facility site plans.
- In order to be eligible for the grant program, LEPCs are required to:
 - meet at least four times per year in at least three quarters of the year;
 - update the countywide hazardous materials emergency plan annually;
 - conduct at least one SARA hazardous materials emergency response exercise a year;
 - make reasonable progress in completing off-site facility plans for responding to potential releases of extremely hazardous substances; and
 - complete other activities required by federal or state law, such as publishing the Section 324 notice.

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Related State Laws

- Wisconsin Act 247 (1995), enacted on April 19, 1996, established staggered four-year terms for SERB members.
- Wisconsin Act 104, signed in January 1991, provides for the establishment of between seven and eleven Hazardous Materials Regional Response Teams.
- Wisconsin Spill Law, s. 144.76, Wisconsin Statutes.
- 1989 Wisconsin Act 256, published May 2, 1990—Local agency response and reimbursement for responses to discharges of hazardous substances.
- Employees' Right-to-Know Law, 1981.
- SERB has established a compliance procedure. Wisconsin Act 115 (1989) gave the SERB LEPC inspection authority and required the SERB to promulgate an administrative rule concerning procedures for authorizing individuals to conduct inspections.

Enforcement Efforts

- SERB has referred cases to the Wisconsin Department of Justice for violations of the state law implementing Title III. These cases resulted in collection of fines totaling over \$750,000.

Potential Liability of SERC and LEPC Members

Wisconsin Act 342 (1987) defines a county board-appointed LEPC member as a "state officer, employee, or agent." As a state officer, employee, or agent, LEPC and SERB members may be indemnified for judgments rendered against them for acts committed within the scope of their agency. Such determinations would be fact-specific and made on a case-by-case basis. Wisconsin Act 13 (1995) extended the civil liability exemption to LEPCs receiving grants from the

SERB/WEM and carrying out program activities. The Wisconsin Department of Justice is authorized to defend SERB/WEM and LEPC members in the event of a suit.

Related Information

The Division of Emergency Management has a twenty-four-hour telephone number (1-800-943-0003) for notification of chemical spills and releases and for emergency release notification to the SERB under Section 304, Title III.

SERC Members

Wisconsin Division of Emergency Management, Department of Military Affairs

Wyoming

Commission Name

Wyoming State Emergency Response Commission

Legal Basis

Executive Order No. 1987-3 and amendments
Established April 17, 1987

Commission Format

Seven private individuals representing state and local government, the local fire department, industry, media, legislature, and the general public.

Chair

Private Industry

Vice Chair

Emergency Management Agency

Commission Address

State Emergency Response Commission
c/o Emergency Management Agency
5500 Bishop Boulevard
Cheyenne, Wyoming 82009
(307) 777-4900
<http://soswy.state.wy.us/director/boards/erc.htm>

Agency Roles

- Emergency planning: Wyoming Emergency Management Agency (WEMA)
- Right-to-know: WEMA
- Recipient of Section 313 data: WEMA

State Costs and Approaches to Funding

- The state legislature appropriated \$14,000 per year to the SERC (fiscal 1998-1999) to cover administrative costs.
- The state anticipates that it will cost about \$14,000 annually to support Title III activities.

Local Emergency Planning Districts and Committees

- All of the twenty-three county LEPCs submitted plan drafts to the SERC for review and approval by November 10, 1988. The plans are reviewed and revised every year as needed as part of a total plan review.

Related State Laws

Wyoming Environmental Quality Act

Enforcement Efforts

The state is enforcing its own Environmental Quality Act.

Potential Liability of SERC and LEPC Members

An opinion from the Office of the Attorney General indicated that because SERC members are properly appointed officers of the state, they would be entitled to defense by the Office of the Attorney General in the event of a suit against them "in their official relations."

Related Information

- The state legislature meets on an annual basis; however, the budget is addressed every two years.
- In addition to being a SERC member, the WEMA Coordinator serves as executive secretary to the commission. The executive secretary is the contact person for industrial notification purposes and assists in setting up commission meetings and handling administrative needs.
- The executive order authorizes WEMA to assist the commission in meeting Title III requirements.

SERC Members

Coordinator, Wyoming Emergency Management Agency;
State and Local Government;
Fire Department;
Industry;
Media;
Legislature; and
General Public.

